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Hon. Horatio King,  
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Dec. 12, 1881.

The North-Eastern Boundary.

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BY ISRAEL WASHBURN, JR.



1281

ARTICLE I.

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THE NORTH-EASTERN BOUNDARY.

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READ BEFORE THE MAINE HISTORICAL SOCIETY, AT PORT-  
LAND, MAY 15, 1879,

BY

HON. ISRAEL WASHBURN, JR., LL.D.



*(Portland)*  
*(Hwy. Ferry to Brunswick)*  
*1881*

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## THE NORTH-EASTERN BOUNDARY.

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I shall read you, this morning, a chapter of concessions, submissions and humiliations by which the otherwise fair record of American diplomacy has been dimmed and stained.

And I shall do this, not to cast reproach upon the memory of any of the actors in the deplorable business, whose history culminated, if it did not close, in the so-called Ashburton Treaty, a work of which the indulgent criticism of the most friendly commentator might be borrowed from Sheridan, who, speaking of another convention, said, "It was one of which, although some were glad, nobody was proud." Nor shall I do it with the expectation that anything said or written by me, or by any one at this time, can avail aught towards a correction of the errors and mistakes of the past. But rather in the thought that a paper which may serve in some measure to keep the history and the lesson alive for purposes of warning, of counsel and of suggestion in the future, will be neither unworthy nor unwelcome; and, I will add, with the further impression, that it will not be wholly uninteresting or unprofitable to the present generation to learn something more than, as a general rule, those who compose it know of the particular history of the important, protracted and embittered controversy which preceded that settlement.

And, besides these considerations, I have sought a personal gratification in an opportunity to express my sense of the debt

due from the people of Maine to those faithful magistrates, who, in no hour of pressure or of alarm, allowed, for a single moment, the honor of the State, or her material interests, to be compromised by any action of the commonwealth over whose affairs they presided. Of Enoch Lincoln, Edward Kent and John Fairfield it could be said with peculiar force and propriety, in the words of Sir Walter Scott's tribute to Fox, they

"Stood by their country's honor fast,  
And nailed her colors to the mast."

It so happened in the history of the negotiations that upon these men rather than upon any other of our Governors, fell the chief weight of responsibility, and the most imperative demands for decisive action. Nor should I pass from this grateful duty without some reference to two gentlemen upon whose patriotic and ardent interest in, and thorough and perfect knowledge of, the questions involved, in all their aspects and relations, these functionaries always and safely relied. I refer to Col. John G. Deane, of Ellsworth—who in his later years was a resident of Portland—and to the Honorable Charles S. Daveis, also of this city.

On the afternoon of the 20th of September, 1875, I left Edmundston, on the St. John River, by the fine military road—constructed at great expense by the British government a quarter of a century before, and following, in the main, the route traveled by Lord Edward Fitzgerald in 1788—leading from the river St. John to the St. Lawrence. When, at two o'clock the next morning, the stage reached a point twenty-six miles south of the latter river, although it had been raining for several hours, the snow was more than a foot deep, and I was informed that three days before its depth was more than two feet; and here I said, without doubt, on this elevation, fifteen

hundred feet above tide-water, are the "highlands," of which I had read so much in the years preceding the treaty of Washington. For, although that treaty, sometimes called the Ashburton Treaty, had been concluded thirty-three years before (in 1842), the leading facts which its discussion had elicited, or which had been brought out in the years preceding, in the correspondence of our Governors, and in legislative reports, were too deeply written upon my memory not to be at call at any moment. But when on a clear, bright August day, in 1877, I came from the St. Lawrence, at River Du Loup, over the same road to Madawaska, after a steady general ascent of some ten miles, a comparatively short descent brought the mail coach (in which I was traveling) to a stream which my companions said was a branch of the river St. Francis, and sixteen miles from the St. Lawrence, I knew that we were, if only the treaty of 1783 had been respected, within the limits of the State of Maine—for the St. Francis is one of the rivers whose waters descend to the Atlantic Ocean—and had been within them since our journey had passed the fifteen miles bourne from the river St. Lawrence.

The high ground, which, on the preceding journey, I had mistaken for the main highland range, was but a spur of it, and the true dividing ridge was ten miles to the northward. It was interesting to notice, on this bright day, how plainly marked and impossible to be mistaken was the treaty boundary.

Never was there such a history of errors, mistakes, blunders, concessions, explanations, apologies, losses and mortifications on the one side; of inconsistencies, aggressions, encroachments, affronts and contempts on the other, as that which has respect to this boundary question; and in the calm of this day, when all direct, practical interest in it has ceased, and the sense of wrong and indignity has slept for more than a third of a cen-

ture, it is impossible for one to read it with anything like composure or patience.

To those statesmen and writers of other countries, who have represented the United States as arrogant, uncomfortable and domineering, I would commend this tale of the sacrifice of northern Maine, as likely to afford them great, if not endless comfort.

Article two of the Treaty of Peace, concluded at Paris between Great Britain and the United States in 1783, so far as respects the question of the north-eastern boundary, is as follows :

“From the north-west angle of Nova Scotia, to wit: that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands,—along the said highlands which divide those rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River.”

This is the northerly line ; the easterly is described :—

“East, by a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands which divide the waters that fall into the Atlantic Ocean from those which fall into the river St. Lawrence, comprehending all islands within twenty leagues of any part of the United States, and lying between the lines to be drawn due east from the points where the aforesaid boundaries between Nova Scotia on the one part, and east Florida on the other, shall respectively touch the Bay of Fundy and the Atlantic Ocean, excepting such islands as now are or heretofore have been within the limits of the said Province of Nova Scotia.”

This language seems to be too plain to admit of dispute, and yet under it four questions have arisen between the parties to

the treaty: First, as to the river St. Croix; second, as to which of the affluents of the St. Croix, was the source of that river within the intention of the treaty; third, as to the islands in Passamaquoddy Bay; fourth, as to the north-west angle of Nova Scotia and the highlands that divide the rivers that fall into the Atlantic Ocean from those which empty themselves into the St. Lawrence. *And all of them have been decided against the United States.*

I propose a brief examination of each.

I. The first question that arose was in regard to which of three rivers falling into the Bay of Fundy was the St. Croix contemplated by the treaty. The question was plain, and easy of solution. These rivers had all been known and described at some time by the name of St. Croix. The most easterly had been called also the Magaquadavic; the intermediate the Schoodic; the most westerly the Cobscook. That the first named is the St. Croix of the treaty, is so plain, I trust, that but few words will be needed for a clear understanding of the case.

Soon after the treaty of 1783, the inhabitants of Nova Scotia (that part which is now New Brunswick) were found occupying, and claiming as British subjects to hold the territory between the Magaquadavic and the Schoodic Rivers, and particularly that near the present town of St. Andrews. Massachusetts objected, claiming the territory as her own, and made complaint to Congress of these encroachments, and was by the latter body requested to cause inquiry into the facts to be made. In pursuance of this solicitation, it appointed a commission, of which two members, Generals Knox and Lincoln, visited Passamaquoddy in the year 1784, and on the 19th of October of that year, made their report to the Governor of Massachusetts. In this report, they say:

"They beg leave to inform your Excellency that a very considerable number of British subjects are settled at a place called St. Andrews, on the eastern bank of the river Schoodic, which, in the opinion of your commissioners, is clearly within the limits of this State.

"By your Excellency's leave, they will recite a short state of facts on which this opinion was formed.

"There are three very considerable rivers which empty themselves into the bay Passamaquoddy, which is five to seven leagues wide. The eastern river falls into the bay about a league from the head of it, and perpendicular to the eastern side; the middle river falls into the bay far on the westerly side of the head of it, and in a direction parallel therewith; the western river falls into the bay about six leagues from the head of it on the westerly side, and nearly perpendicular to it; all of which in late British maps are called St. Croix. The first is by the Indians called Maggadava, the second Schoodick, the third Cobscook.

"From every information the subscribers could obtain on inquiry of the Indians and others, the eastern river was the original St. Croix. This is about three leagues east of St. Andrews, where the British inhabitants have made a settlement. Soon after the subscribers received their commission, they wrote to Mr. Jay requesting him to give them information whether the Commissioners for negotiating the peace confined themselves in tracing the boundaries of the United States to any particular map, and if any one, to what? Since their return they received his answer, mentioning that Mitchell's map was the *only one* that the commission used, and on *that they traced the boundaries agreed to*.

"On this map two rivers were laid down; the western was called thereon the Passamaquoddy, and *the eastern the St. Croix.*"

It is to be observed that the Passamaquoddy is the river at other times called the Schoodic.

The Commissioners also say, "The subscribers further represent that they find in the maps of a quarto volume published

in Paris in 1774, from Charlevoix's voyage to North America, made in 1644, two rivers delineated at the head of the bay of Passamaquoddy, the western of which is called Passamaquoddy, and the eastern St. Croix."

The westernmost river, the Cobscook, is much smaller than either of the others, and is not laid down on all the maps.

But as to the fact that the true St. Croix was east of the Passamaquoddy—otherwise called Schoodic River—there seems to be no doubt. Whatever doubt might possibly have otherwise existed is wholly removed by the testimony of Surveyor Mitchell, given in an affidavit on the 9th of October, 1784, as follows:

"The subscriber, an inhabitant of Chester, in the State of New Hampshire, voluntarily makes the following declaration, to wit: that I was employed by his Excellency, Francis Bernard, Esq., Governor of the Province of Massachusetts Bay, in April, 1764, in company with Mr. Israel Jones as my deputy, Mr. Nathan Jones as commanding officer of a party of troops, and Captain Fletcher as Indian interpreter, to repair to the Bay of Passamaquoddy to assemble the Indians usually residing there, and from them to ascertain the river known as the St. Croix. We, accordingly, assembled upwards of forty of the principal Indians upon an island then called L'Atereel, in the said Bay of Passamaquoddy. After having fully and freely conversed with them upon the subject of our mission, the Chief commissioned three Indians to show us the said river St. Croix, which is situated nearly six miles north, and about three degrees east of harbor L'Tete, and east north-east of the bay or river Schoodick, and distant from it about nine miles on a right line. The aforesaid three Indians, after having shown us the river, and being duly informed of the nature and importance of an oath, did in a solemn manner depose to the truth of their information respecting the identity of the said river St. Croix, and that it was the ancient and only river

known among them by that name. We proceeded conformably to this information in our surveys; and, in August following, I delivered to Gov. Bernard *three plans* of the said river St. Croix and the said Bay of Passamaquoddy."

This statement of Mitchell is confirmed in every respect by the deposition of Nathan Jones, given March 17, 1785, who states that he was appointed by Gov. Bernard in 1764, commander of a party to explore the woods and view the rivers, bays, &c., to ascertain the river St. Croix dividing the Province of Massachusetts Bay from Nova Scotia, and to perform a survey thereof. He said the river "St. Croix was then known as the Maggacadava."

It must be remembered that in 1764, when this survey and these plans were made, Massachusetts Bay and Nova Scotia were both Provinces of Great Britain, and that the object of Gov. Bernard, as a faithful servant of the Crown, was to find and determine the true line. He had no interest to do anything else. He appointed his Surveyor and other officers: they made their report (which in respect to this line was in conformity with the map of John Mitchell made eighteen years before), and he accepted and acted upon it; and from that date to the time of the treaty, the line so found was the established, the recognized, and the undisputed line between these Provinces. Thus by the treaty of 1783, all that then belonged to Massachusetts, all that did not belong to Nova Scotia, was ceded to the United States. The river St. Croix, dividing these Provinces, had been ascertained, and declared in the report of 1764, as it had also been laid down on the map used by the Commissioners themselves. The question was settled.

It has been seen by the reports of Generals Knox and Lincoln that Mitchell's map (although other maps were before them) was the only one "used" by the Commissioners when the treaty

was made, and that the line was drawn thereon. Not only is there the testimony of Mr. Jay to this effect, but there is also that of John Adams. Writing from Auteuil, near Paris, October 25, 1784, to Governor Cushing, he says:

“We had before us through the whole negotiation, several maps, but it was Mitchell’s map upon which we marked out the whole of the boundary lines of the United States; and the *river St. Croix which we fixed on, was upon that map nearest to St. John*; so that in all equity, good conscience and honor, the river next to St. John’s should be the boundary. I am glad the General Court are taking early measures, and hope they will pursue them steadily until the point is settled, which it may be now amicably; if neglected long, it may be more difficult.”

Nor does the testimony stop here. Dr. Franklin was one of the Commissioners by whom the Treaty of Peace was negotiated, and on the 8th of April, 1790, in a letter to Mr. Jefferson, he writes:

“I can assure you that I am perfectly clear in the remembrance that the map we used in tracing the boundary was *brought to the treaty by the Commissioners from England*, and that it was the same as that published by Mitchell twenty years before. Having a copy of that map by me in loose sheets, I send you that sheet which contains the bay of Passamaquoddy, *where you will see that part of the boundary traced*. I remember, too, that in that part of the boundary we relied much on the opinion of Mr. Adams, who had been concerned in some former disputes concerning these territories. \* \* \* *That the map we used was Mitchell’s map, Congress were acquainted at the time by letter to their Secretary of Foreign Affairs*, which I suppose may be found upon their files.”

One would suppose that upon this record, nothing could be more clear and certain than that the river now called the Magaquadavic, was the true St. Croix that divided the Provinces of

Massachusetts Bay and Nova Scotia. It was purely a question of fact, not of convenience or argument. Did Messrs. Jay, Adams and Franklin state the facts in the letters that have been quoted? That they did has never, to my knowledge, been disputed. One will be curious to learn upon what plausible or possible grounds it could be claimed that the Schoodic, or Passamaquoddy, was the St. Croix River agreed upon and marked by the Commissioners as the treaty river.

In the first place, no sooner had the treaty been ratified than the British Government changed the ground on which it had established its claims against the French, and adopted that of France. So that Mr. Jay, our Minister at London, was well justified in the prediction made to Mr. Randolph, our Secretary of State, in a letter written November 19, 1794, in which he said :

“In discussing the question about the river St. Croix before the Commissioners,” (Commissioners had at this time been agreed upon by the treaty of 1794, known as Jay’s treaty, for determining the St. Croix), “I apprehend the *old French claims will be revived*. We must adhere to Mitchell’s map. The Vice President” (Mr. Adams) “perfectly understood this business.”

In pursuance of the 5th article of this treaty of 1794, a commission, consisting of Thomas Barclay, David Howell (Englishmen), and Egbert Benson (American), was appointed to decide the question, “What river was the true St. Croix contemplated in the treaty of peace, and forming a part of the boundary therein described?”

In the argument made by the British agent before these Commissioners, it was contended first, that by an Act of Parliament, in the year 1774, a line between Nova Scotia and Massachusetts Bay was recognized which made the Schoodic River the boundary between these Provinces.

It will be observed that even if it should appear that the Schoodic was recognized as the St. Croix, or as *a* St. Croix, by Act of Parliament in 1774, that that fact could in no way affect the other and controlling one; that the Commissioners decided that the Magaquadavic was *the* St. Croix which was to form the boundary, and traced it as such upon the official map.

But this point does not seem to have been greatly relied upon. The main contention was really an appeal to considerations of convenience and accommodation. The agent exerted himself to maintain that the American construction would carry the line to within a short distance of Fredericton, and would, by separating the sources of certain rivers running into the Bay of Chaleurs from their mouths, produce such inconvenience that it could not be supposed that such a line was in the minds of the parties who negotiated the treaty. But, when it is considered that the line from the source of the St. Croix, as decided by these Commissioners of 1794 themselves, crosses the same streams that fall into the Bay of Chaleurs, as well as the river St. John, a river which falls into the Bay of Fundy, separating its source from its debouchure, the assumption falls to the ground. It is employed, however, to prove that as the parties would respectively wish to secure within their own limits the entire course of the streams which had an outlet therein, they would fix upon that river as the true St. Croix of the treaty, which would most nearly compass this desirable end.

That this consideration had no practical weight with the Commissioners by whom the treaty of peace was made, appears not merely from the fact already stated, that the line did divide the sources of several important rivers from their mouths, but also from the fact that the north-west angle of Nova Scotia (which, by the treaty, was the north-eastern angle of the United States)

was known by all the parties to the treaty. It was a point on the southerly border of Canada, and that border was, and long had been, fixed upon a range of highlands well defined, and situated but a short distance south of the St. Lawrence River. The angle was formed on this border by a line drawn due north from the source of the river St. Croix. That this angle on the southerly boundary of Quebec (Canada), was so located that a line to it from the river St. Croix, whether that river was the Schoodic or the Magaquadavic, would intersect rivers which had their mouths within British territory, was known to the Commissioners as a fact that was beyond question. Everybody knew it; nobody doubted it. To found an argument from it for a change of the river from the one agreed upon, implies a belief on the part of the British agent that the United States, in the exhausted condition of the country, would stand a great deal of injustice before going to war again.

Great Britain, as has happened several times since, and notably in the late fisheries controversy, had the good fortune to be strongly represented on the St. Croix Commission, while the side of the United States was but feebly and inadequately supported; and so in 1798, the former succeeded in obtaining a report declaring the northerly branch of the Schoodic to be the boundary line. She had claimed the westerly branch, and all her arguments applied to that line, and were based on grounds that rendered the acceptance of a more easterly branch inconsistent and entirely inadmissible. She had demanded a line that would have brought the Province of New Brunswick to near the Passadumkeag River, and which would have nullified or contradicted every essential provision of the treaty, and she gained (doubtless all that she ever expected) a compromise line. The plain provisions of the treaty and all its undisputed history were set aside.

By this settlement, which covered the only question as to the boundary, then in dispute, and which proceeded all along on the mutual understanding that the line north of the source of the St. Croix, was where the United States claimed it to be, the State of Maine lost a strip of territory from fifteen to twenty miles in breadth, and one hundred and seventy-five miles in length, including all that is west of the Magaquadavic River, and all that is west of the river St. John from a point near the Meductic rapids some twenty miles below Woodstock, embracing that fine town and the unrivalled farming tract above and below it on the west side of the river St. John, as well as an extensive territory east of the river.

II. But our bad fortune did not stop here. The Commissioners, having agreed upon the river, decided that its source was in what is now known as Round Lake, the same, I suppose, that is laid down as North Lake on Greenleaf's map of 1815; but, when they came to make their report, for reasons which I have never been able to learn, substituted Cheputnecook for Round Lake, and thereby gave to New Brunswick a tract of country of the average breadth of ten miles, and one hundred and fifty miles long; and more by so much than was actually required, even upon the hypothesis that the Schoodic was the true St. Croix.

III. The next question that arose under the treaty, was in regard to the islands in Passamaquoddy Bay; and this, too, was decided in favor of Great Britain. By conceding the title of Maine to Moose Island (Eastport)—which could never have been in more doubt than her title to Mt. Desert—she acquired Campo Bello, and Grand Menan, a large island on our coast west of Eastport. This decision, while greatly objectionable, and unsupported by the treaty, did not do such gross violence to its terms, or to its history, as did that in respect to the St.

See correction  
at end.

Croix. It was made November 24, 1817, by Thomas Barclay and John Holmes, Commissioners appointed under the provisions of the 4th article of the treaty of Ghent, December 24, 1814.

IV. For twenty years subsequent to 1794 (or the date of Jay's treaty), there was no denial of the claims of the United States respecting the treaty line, north of the source of the St. Croix, on the part of Great Britain; but, on the contrary she many times, and in various ways, assumed their correctness, and acted upon that assumption. In the hearing before the Commissioners under this treaty, she asserted it, and obtained a decision for which she argued on the basis of that assertion. In 1803, there was a convention between the two nations (which the United States failed to ratify on account of a provision touching our Western possessions), in which was inserted a clause for running the line between the source of the St. Croix and the north-west angle of Nova Scotia. It was a misfortune, so far as this State was concerned, that this convention was not ratified, for there can be no doubt that if it had been, the line would have been run and established as claimed by the United States; for, at that time, there was no thought or suggestion of any other line.

In 1804 and 1807, the subject of running the line according to the treaty was referred to by the British Government in terms implying that there was no difference of opinion between the parties as to its construction. Massachusetts had exercised undisputed jurisdiction over the territory afterwards brought into question. In 1792, she sold to Henry Jackson and Royal Flint a large tract of land lying within the claim afterwards set up by Great Britain; and in 1794, Park Holland and Jonathan Mayhew made a survey of the tract extending from the St. Croix almost to the highlands dividing the waters of the

St. John and the St. Lawrence, and which they were prevented from completing only by lack of provisions. This survey was laid down on a map of Maine drawn by Osgood Carleton, in 1795. In 1797, Massachusetts granted from the territory, afterwards in dispute, half a township to Deerfield Academy. In 1806, a grant of a half township was made to General Eaton, and in 1808, a whole township was granted to the town of Plymouth.

Down to the close of the war of 1812, the question stood in this way:

1. The language of the treaty was plain, undisputed, indisputable. Let us turn to this language once more, and see if it is open to doubt. *"From the north-west angle of Nova Scotia, to wit: that angle which is formed by a line drawn due north from the source of the St. Croix River to the highlands which divide those rivers that empty themselves into the St. Lawrence from those which fall into the Atlantic Ocean, to the north-westernmost head of Connecticut River. \* \* East by a line to be drawn along the middle of the river St. Croix, from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid highlands which divide the rivers that fall into the Atlantic Ocean from those which fall into the river St. Lawrence."*

2. Great Britain had raised no question as to the validity of our claim in respect to *this* line, but, in order to secure her own interpretation as to the river St. Croix, had deliberately admitted it, and thereupon laid a foundation for an argument, to convince the Commissioners of the justice of her contention in regard to the river, and had further admitted it by the terms of the Convention of 1803.

3. Massachusetts had exercised unquestioned and undisturbed jurisdiction over the territory for more than twenty years.

But, by the close of the war of 1812-15, England had learned something of the probable value of a way between her eastern and western Provinces, and that such a way would most conveniently, if not necessarily, lead across the State of Maine. She affected to believe (and therein was a grave affront) that that war was waged by the United States in part for the conquest of the Canadas, and insisted that it was therefore reasonable and proper that she should take steps to protect them against future attacks. On the fourth of September, 1814, her Minister at Ghent wrote to our Minister as follows: "If, then, the security of the British North American dominions requires any *sacrifice*" (note the word) "on the part of the United States, it must be ascribed to the declared policy of that government in making the war not one of self-defence, nor for the redress of grievances, real or pretended, but a part of a system of conquest and aggrandizement."

But, even under the spur of this source of apprehension, Great Britain was not prepared to assert that, by the treaty line, the road-way was not in the territory of the United States. She admitted that it was, and asked for a conventional line.

On the eighth of August, 1814, the British Commissioners, who were then engaged in an effort to make peace, in a note to the American Commissioners, describe their request as "such a VARIATION of *the line of frontier as may secure a direct communication between Quebec and Halifax.*" To this, on the twenty-fourth of August, the American Commissioners replied that they had "no authority to CEDE any part of the territory of the United States," and could agree to no such line. The British Commissioners, on the fourth of September, return to the subject, and say that they are "persuaded that an ARRANGEMENT on this point might easily be made, if entered into in a spirit of conciliation, without any prejudice to the interests of the district in question." From this, it would seem that England did

not ask for a clear title, but only for an easement, or right of way. But, however this may have been, the American Commissioners, on the ninth of September, protested once more that they had no authority to *cede* any part of the State of Massachusetts, *even for an equivalent.*" But this plain and decisive answer did not silence the British Commissioners; it, however, led them to change their base and plan of attack. And so we find them, on the eighth of October, replying that the British Government "never required that all that portion of Massachusetts intervening between the Provinces of New Brunswick and Quebec should be *ceded* to Great Britain; but only *that small portion* of unsettled country which interrupts the communication between Quebec and Halifax, *there being much doubt whether it does not already belong to Great Britain.*"

It is curious to note that when at last the British Commissioners found themselves compelled to take a new departure, and occupy a position inconsistent with all their previous claims, and arguments and concessions, the new rôle was so strange, that in opening it they could not avoid confessing, by their language, that it was a false one. They spoke of a *cession*, *i. e.*, of a grant, of a "small portion" of country that "interrupts the communication between Quebec and Halifax." As that interruption was between the Grand Falls on the St. John and the river St. Lawrence, it results that at this time the American title north of the former river was acknowledged, and a cession of a small part of it only solicited.

This was the prelude to the doubt, raised for the first time in the history of this question, as to the perfectness of the American title—a doubt not only unmentioned, but unexisting, until after it had been discovered that no propositions for a new line would be entertained by the Commissioners of the United States. There was then no alternative for Great Britain but to lay the

foundation for a dispute, and see what would come out of it. But even then, she was not prepared to claim as hers, by the terms of the treaty, the territory which she had so persistently urged, and still continued to urge the government of the United States to *cede* to her.

Finding that no "variation," "cession," "revision," or "arrangement" could be obtained through the American Commissioners, a provision—being the 5th article of the Treaty of Ghent—was agreed upon for running the line (not for making a new one) in conformity with the treaty of 1783. It was further stipulated that in case a failure to run the line by the Commissioners, to be appointed for that purpose, the differences arising between the parties should be referred to the decision of a friendly Sovereign.

Thomas Barclay, of whom we have heard more than once before, as a Commissioner under the treaty, on the part of Great Britain, and Cornelius P. Van Ness, on the part of the United States, were appointed Commissioners to ascertain and run the line. An actual survey was arranged, and surveyors appointed, to wit: Charles Turner, Jr., on the part of the United States, and Colin Campbell on the part of Great Britain. About twenty miles of the line was surveyed, then the work was discontinued, never to be resumed; but an exploring survey was commenced by Col. Bouchette, on the part of Great Britain, and John Johnson, on the part of the United States. These gentlemen made an exploring line in 1817, extending ninety-nine miles from the monument at the head of the river St. Croix, and made separate reports of their doings. In 1818, Mr. Johnson, with Mr. Odell, who had taken the place of Col. Bouchette, finished running the exploring line to the Beaver or Metis River. It was in this year that the opinion was first expressed by the British agent, that Mars Hill, an isolated mountain south of

the Aroostook River, might be the north-west angle of Nova Scotia, and the north-eastern boundary of Maine. And he, having given expression to this novel and preposterous conception, proposed to discontinue the survey along the highlands south of the river St. Lawrence, return to Mars Hill, and explore thence westerly towards the sources of the Chaudiere and Kennebec. The result was that the surveyors disagreed, the British surveyor refused to go on and finish the exploring survey now almost completed, and the work was abandoned.

From this time, Great Britain began to assert title in herself to the country north of Mars Hill, hesitatingly at first, but more positively afterwards. To enable her to do this, even to her own acceptance, she was compelled to rely on the quibble heretofore mentioned, that a line due north from the source of the St. Croix would, before reaching the north-west angle of Nova Scotia, as claimed by the United States, and as laid down in all the Provincial charters and commissions of royal Governors, cross several streams that flow into the *Bay* of Chaleurs; and, therefore, these highlands would not divide waters that empty themselves into the river St. Lawrence from those which fall into the Atlantic Ocean.

And it signified nothing to her that it was answered, that the plain meaning of the treaty was to find highlands which divided rivers flowing into the St. Lawrence from those falling into the Atlantic Ocean directly, or through some bay or gulf. It was in vain that it was replied that this new interpretation defeats the treaty line altogether; for by it, even the river St. John does not fall into the Atlantic Ocean, but into the Bay of Fundy. If these highlands are denied because they cannot be reached before crossing the waters of the Restigouche, neither can they without crossing the St. John, the Aroostook, the Meduxnekeag and other rivers. The Penobscot River does not

fall into the Atlantic Ocean upon this interpretation, but into Penobscot Bay; the Kennebec flows into the Bay of Sagadahoc, and not into the Atlantic Ocean. There are, upon this view, no rivers on our coast that fall into the Atlantic. It was in vain that it was said that, upon the British contention, the line does not divide any rivers that fall into the St. Lawrence from any other rivers whatever; that it divides only those falling into the St. John on the north and east from those falling into the Penobscot and Kennebec on the south and west, and not any that flow into the St. Lawrence on the one side from any that flow into the Atlantic Ocean on the other; that it was pointed out that on the British construction, both the St. Lawrence River and the Atlantic Ocean were completely erased from the treaty. And it availed nothing that the absolutely unanswerable point was made, that the southerly line of the Province of Quebec ran along highlands which divided waters that fall into the St. Lawrence from those which flow into the ocean through the Bays of Chaleurs, Fundy, Penobscot, &c., and was a well-known and established line for many years, and that where a line drawn from the head of the river St. Croix intersected the south line of the old Province of Quebec, was the north-west angle of Nova Scotia—the angle referred to in the treaty. It was all irrelevant or unimportant; Mars Hill, an isolated peak, and no range at all, *several miles west* of a direct north line from the source of the St. Croix, and in no way intersected by such a line, was the true angle. True, it was a solitary peak; it was not touched by the north line; it divided no rivers running into the St. Lawrence from any that were emptied into the ocean, or that had an outlet anywhere else!

An administration that should at the present day receive such a pretension as this in any other light than as a deliberate affront, would be regarded as unworthy of the public respect, and be

speedily dismissed from its confidence. It was only in the hour of the country's exhaustion, and absolute need of a season for recuperation, that the provocation for plainness of speech or for action, such as I am glad to say was in our own State not unworthily responded to, was restrained in the country at large by what were regarded as the counsels of prudence.

Down to 1763, when by treaty with the French, Canada was acquired by Great Britain, both New England and Noya Scotia extended to the southerly shore of the St. Lawrence River. But, at this time, when it became necessary to establish the Province of Quebec, the King extended its limits so as to include the valley of that river on the south. The royal proclamation of October 7, 1763, established the southerly boundary of the Province of Quebec on the highlands which separated the rivers running to the north or north-east into the St. Lawrence from those running to the south and south-east. In other words, the Treaty of Peace of 1783 made this southerly boundary of Quebec the northerly one of Massachusetts. Parliament, in 1774, confirmed the southerly boundary of Quebec as described in the proclamation of the King in the previous year.

A map, on which these highlands were laid down, had been made by John Mitchell, at the request of the Lords Commissioners of Trade and Plantations, in 1755, and was the acknowledged, authoritative map of the time. So far as this boundary line is concerned it was, as we have seen, followed and adopted by John Mitchell in his survey and plan in 1764. Whether the John Mitchell who made the survey in the latter year was the author of the map of 1755 or not, it is certain that the easterly line of Massachusetts, as claimed by the United States, was verified and authenticated by both the map of 1755 and the plan of 1764. The former was produced by the British Commissioners at the negotiation of the treaty, and was adopted and

used by both parties. It was the official map, and a part of the record.

Referring to the point on which the British pretensions were founded, to wit: that the St. John River does not fall into the Atlantic Ocean, but into the Bay of Fundy, and therefore the dividing line or highlands must be sought south of this river, I am induced to quote a few paragraphs from a report made to the Senate of the United States, July 4, 1838, by Mr. Buchanan, afterwards President of the United States:

“Now, what are the objections to this extraordinary pretension, as the committee are constrained to call it?

“And, first, what is the Bay of Fundy, if it be not a part of the Atlantic Ocean? A bay is a mere opening of the main ocean into the land—a mere interruption of the uniformity of the seacoast by an indentation of water. These portions of the ocean have received the name of bays, solely to distinguish them from the remainder of the vast deep, to which they belong. Would it not be the merest special pleading to contend that the Bay of Naples was not a portion of the Mediterranean, or that the Bay of Biscay was not a part of the Atlantic Ocean?

“Again: the description of the treaty is, ‘rivers which fall into the Atlantic Ocean.’ Can it be said, with any propriety, that a river does not fall into the Atlantic, because, in reaching the main ocean, it may pass through a bay? And yet this is the British argument. The Delaware does not fall into the Atlantic, because it flows into it through the Bay of Delaware; and, for the same reason, the St. John does not fall into the Atlantic, because it flows into it through the Bay of Fundy. The committee know not how to give a serious answer to such an argument. The bare statement of it is its best refutation.

“But, like all such arguments, it proves too much. If it be correct, this portion of the treaty of 1783 is rendered absurd and suicidal; and the wise and distinguished statesmen, by whom it

was framed, must be condemned by posterity, for affixing their names to an instrument, in this particular, at least, absolutely void. Although they believed they would prevent 'all disputes which might arise in future, on the subject of the boundaries of the United States,' by fixing their commencement at 'the north-west angle of Nova Scotia,' and running from thence along 'the highlands which divide those rivers which empty themselves into the river St. Lawrence, from those which fall into the Atlantic ocean,' yet it is absolutely certain, that there was not a single river in that whole region of country which, according to the British construction, did fall into the Atlantic ocean. They all fall into bays, without one exception. Neither can we plead ignorance as an excuse for these Commissioners; because it is fully in proof, that they had Mitchell's map before them, from which the fact clearly appears. The Ristigouche does not fall into the Atlantic, because it has its mouth in the Bay of Chaleurs; nor does the Penobscot, because its mouth is in the Bay of Penobscot; nor do the Kennebeck and Androscoggin, because, after their junction, they fall into the Bay of Sagadahock. The same is true, even of the Connecticut, because it empties itself into Long Island Sound. All the rivers in that region are in the same condition with the St. John. Thus it appears, if the British argument be well founded, that the Commissioners have concluded a treaty, and described highlands, whence streams proceed falling into the Atlantic, as a portion of the boundary of the United States, when from the very face of the map before them, it is apparent no such streams exist.

"There is another objection to the British claim, which is conclusive. Wherever the highlands of the treaty exist, they must be highlands from which on the north side streams proceed falling into the St. Lawrence. This portion of the description is as essential as that from their south side streams should issue falling into the Atlantic. Now, the British claim abandons the former part of the description altogether. Their line of highlands commencing at Mars Hill, is at least a hundred miles south of the

highlands whence the tributaries of the St. Lawrence flow. Between these highlands and those claimed by the British Government, the broad valley of the St. John spreads itself, watered by the river of that name, and the streams which empty into it from the north and from the south. The two points on the western line of New Brunswick are distant from each other more than a hundred miles; and when you arrive at the British highlands, you find that they divide the sources of the St. John and the Penobscot, and not the sources of streams falling into the St. Lawrence and the Atlantic Ocean, according to the description of the treaty.

\* \* \* \* \*

"But how is it possible ever to embrace Mars Hill in the line of highlands running from the western extremity of the Bay of Chaleurs, and forming the southern boundary of the Province of Quebec? It is clear that in this, and in this alone, the north-western angle of Nova Scotia is to be found. Mars Hill is one hundred miles directly south of this line. You cannot, by any possibility, embrace that hill in this range, unless you can prove that a hill in latitude  $46\frac{1}{2}$  is part of a ridge directly north of it in latitude 48; and this, notwithstanding the whole valley of the St. John, from its southern to its northern extremity, intervenes between the two. The thing is impossible. Mars Hill can never be made, by any human ingenuity, the north-west angle of Nova Scotia."

In closing the discussion of the question of right, Mr. Buchanan's report employs this very emphatic language:

"Upon the whole, the committee do not entertain a doubt of the title of the United States to the whole of the disputed territory. They go further, and state that if the general Government be not both able and willing to protect the territory of each State inviolate, then it will have proved itself incapable of performing one of its first and highest duties."

The following resolution was passed unanimously by both Houses of Congress:

*“Resolved, That after a careful examination and deliberate consideration of the whole controversy between the United States and Great Britain, relative to the north-eastern boundary of the former, the Senate does not entertain a doubt of the entire practicability of running and marking that boundary, in strict conformity with the stipulations of the definitive treaty of peace of seventeen hundred and eighty-three; and it entertains a perfect conviction of the justice and validity of the title of the United States to the full extent of all the territory in dispute between the two parties.”*

Having thus described and explained the several and conflicting claims of Great Britain in respect to this territory, I now proceed to give a brief history of negotiations and events connected with the question subsequent to the treaty of Ghent, and to the abandonment of the O’Leell and Johnson survey.

For twenty years after this treaty, Great Britain received no new light, and made no new arguments; but with these alone she commenced making aggressions—gradually, quietly, moderately at first, so as not too soon to arrest the attention of the United States—and after a series of acts of occupation and jurisdiction, came at length to more open and positive claims, such as should afford a pretext for proposing a mutual or concurrent jurisdiction of the territory.

Following the course of events after the erection of Maine into a State, we find in the year in which that event happened, the government of the United States taking the census of Madawaska, on both sides of the river St. John, with no objection from Great Britain.

Governor King, in his message to the first Legislature of Maine, expresses his inability to inform that body what progress had been made under the 5th article of the treaty of Ghent, in settling the boundary, but he complains that the agent appointed on the part of the United States, in reference to this

question, had not been selected from Maine or Massachusetts. The Legislature passed a Resolve requesting the federal government to cause the line to be run and established.

Governor Parris, in his annual message in 1822, informs the Legislature that he learns that the "claims of the British Commissioner cover a tract of country heretofore confessedly belonging to this State, and over which it has exercised jurisdiction," and suggests that the attention of our Senators and Representatives in Congress be called to the subject, and the more, as neither the Commissioner or agent, on the part of the United States, belongs to this State. A Resolve was passed by the Legislature January 16, 1822, requesting our Senators and Representatives in Congress "to collect all the information which they can obtain, relating to the causes which have produced the difference of opinion between the American and British Commissioners, \* \* \* and the extent and nature of the claims set up by the British Commissioner, and transmit said information to the Executive of this State."

In his message for 1823, Governor Parris makes no reference to this subject.

In 1824, he returns to the question in these words: "In consequence of the disagreement of the Commissioners appointed under the 5th article of the treaty of Ghent, a proposition has been made by the government of the United States, and accepted by the British Government, to endeavor to establish this boundary by amicable negotiation, rather than by the decision of a foreign power, as provided by the treaty. This arrangement is believed to be satisfactory to Maine, and we have reason to feel a confidence that the negotiation will be so conducted as to secure to this State its just rights."

But matters do not look quite so well in 1825, and we find Governor Parris a little impatient at the slow progress that is

being made towards an establishment of the boundary line. He tells the Legislature, in his message to that body, that "there is reason to believe that depredations to a very considerable extent have been committed on our timber lands lying on the Aroostook and Madawaska, and other streams emptying into the St. John. \* \* It is represented that these depredations are committed by British subjects, and on that portion of the territory of the State which is claimed by the British government as belonging to the Province of New Brunswick. This pretended claim, it is understood, includes about one-third of our territory, and comprehends a great portion of our best timber land and large tracts of superior quality for cultivation and settlement."

A committee of the Legislature reported that they were satisfied that the trespasses referred to by the Governor, were committed under permits and licenses from British authorities, and that it behooved the States of Maine and Massachusetts "to adopt the most efficient measures to prevent further encroachments upon this territory, and to urge upon the national government the necessity and importance of bringing to a speedy and favorable termination the negotiation on this interesting subject, which has been so long protracted."

On the twenty-sixth of February of this year, the Legislature passed a Resolve respecting the settlers on the territory, of which the following is a copy :

"*Whereas*, There are a number of settlers on the undivided public lands on the St. John and Madawaska Rivers, many of whom have resided therein more than thirty years; therefore,

"*Resolved*, That the land agent of this State, in conjunction with such agent as may be appointed for that purpose on the part of the State of Massachusetts, be, and he is hereby authorized and directed to make and execute good and sufficient deeds conveying to such settlers in actual possession, as aforesaid, their heirs and

assigns, one hundred acres each of the land by them possessed, to include their improvements on their respective lots, they paying to the said agent, for the use of the State, five dollars each and the expense of surveying the same."

Authority was given by another Resolve to sell timber on territory lying on or near the river St. John.

Massachusetts passed similar Resolves to the above, and during the year deeds were executed and delivered by James Irish and George W. Coffin, land agents, to John Baker and James Bacon, of the lands occupied by them on the north side of the St. John River, lying on the Mariumpiticook River, west of the Madawaska River, and ten to fifteen miles above any of the French settlements. As early as 1817, several families from Kennebec County had settled in this neighborhood, among whom was Nathan Baker. Nathan died before 1825, and his widow married his brother, John Baker, who occupied the premises that had been taken up by Nathan, and on which not only a dwelling house, but a saw mill and grist mill, had been erected. There were several other American settlers in this neighborhood.

Governor Parris called the attention of the Legislature to the subject once more, in his annual message of 1826, and expresses increased uneasiness in view of the condition of affairs, and urges that measures be taken to procure copies of maps, reports and other papers bearing upon the question. In the Legislature, a committee, of which Reuel Williams was chairman, reported a Resolve, which was passed, requesting the Governor to procure copies of maps, documents, publications, papers and surveys relating to the boundary; and also, if Massachusetts should concur, to "cause the eastern and northern lines of the State of Maine to be explored, and the monuments upon those

lines mentioned in the treaty of 1783 to be ascertained in such manner as may be most expedient."

Another Resolve passed by the Legislature this year, provided for the opening and clearing of a road from Penobscot River to Houlton, and for marking a road from the mouth of the Mattawankeag to the mouth of Fish River in the river St. John.

In January, 1827, Enoch Lincoln, whose devotion to the interests and honor of the State was so engrossing and complete as to make his name a synonym for both, was inaugurated Governor.

Referring in his first message to the north-eastern boundary question, he said—

"It becomes a community to be tenacious of its territorial possessions, when its relative political importance and its self-protecting powers are in a degree involved in them. But as we have no reason to believe that the right or disposition anywhere exists to cede our soil, under the pretext of adjusting a limit, which would be an abuse in which neither the people nor the governments of the Union or the States would acquiesce, we may safely anticipate that our landmarks will be held sacred, and that our inalienable sovereignty will be respected."

Here were strong, clear, unmistakable words. The right, which there were some grounds to fear might be asserted, was denied—the right to cede our soil "under the pretext of adjusting a limit." Our title was "inalienable."

It has been seen that the Legislature of the last year called on the government of the United States for copies of maps and documents. This request was not complied with, for reasons which appear in the journal of President John Quincy Adams, under date of August 14, 1826. Mr. Adams says: "Mr. Parris"—Governor Parris of Maine, who had called upon the President—"spoke of the deep interest which his State had in the controversy; and

although he felt full confidence that the government of the United States would consent to no stipulation injurious to the rights of the State, yet he said they were not without apprehensions that New York might be willing to purchase Rouse's Point at the expense of Maine"—a fear that was prophetic, for it was literally realized in the Ashburton treaty in 1842. The journal continues: "He manifested a wish to be furnished with copies of the arguments of the agents, and reports of the Commissioners under the 5th article of the treaty of Ghent, which we declined giving heretofore, from an apprehension that a premature disclosure of them might operate unfavorably upon the negotiation. I told him that their great bulk was an obstacle to the furnishing of copies, but that they had been, and would still be, open to the inspection and perusal of the Representatives and Senators from Maine, and would be equally so to the Governor of the State, if present."

Alluding to this refusal to give copies by the federal government, Governor Lincoln, in his message for 1827, said: "My immediate predecessor has solicited the documents contemplated by a Resolve of a former Legislature relative to our boundary, and I cannot but hope that the person applied to will find the obligations of his situation so modified as to admit his furnishing the proper officers of this State information by which it may be prepared to judge correctly of the rights of the Union and of a foreign nation, in connection with that independent right which it ought to maintain, so far as the prudent application of all its justifiable means will permit."

So much of this message as related to the boundary was referred to a joint select committee, which made a brief report through the Hon. John G. Deane, a gentleman who, with the possible exceptions of Governor Lincoln and Mr. Daveis, understood this question better than any man living. •

"The State," said the committee, "neither seeks nor claims more than her own, but she has a deep interest in preserving and retaining all to which she has a right; and will not be wanting in any proper exertion to preserve and maintain the integrity of her territory." Again, "We can anticipate only one class of events which would invest a right in the general government to give up any such territory; and those events are such only which, from the application of external force, would impair the national compact and destroy the present Union. In any other case we deny the right of the government of the United States to yield any portion of our territory to any other independent sovereignty, unless by the consent of the State."

A Resolve was passed requesting the Governor to take all measures he should deem expedient in acquiring information, and procuring a speedy adjustment of the dispute according to the treaty of 1783.

Full of the subject himself, sensitive to the honor of the Commonwealth, stung by the indignity done her by the seizure and imprisonment of her citizens by a foreign power, impatient of the trifling excuses and pretexts by which her rights and interests had been kept in abeyance for forty years, and thus armed and instructed by the Legislature, the Governor went to work at once, in the most earnest and vigorous manner, to bring the question to the front and secure its prompt and just settlement.

On the twentieth of March, he addressed a letter to the Secretary of State at Washington, transmitting the above Report and Resolve, and asking for copies of the documents which had been before denied. The Secretary (Mr. Clay) replied on the twenty-seventh of March, and assured the Governor that the President felt a most lively solicitude on the subject that Mr. Gallatin was charged with, and had entered on a negotiation

concerning it; that the prospect was that there would be no alternative but referring the difference to arbitration according to the provisions of the treaty of Ghent; that copies of maps, surveys, or documentary evidence would be furnished when applied for, but that copies of the reports and arguments of the Commissioners could not be given; that the British government had abstained, under a promise given by her Minister at Washington, from any NEW exercise of sovereignty over the disputed territory, and he hoped that Maine would, during the pendency of negotiations, practice a like forbearance.

To this communication Governor Lincoln replied on the eighteenth of April, 1827, and, after assuring the President (in answer to some unfounded report that State officials had been proposing a change of boundary) "that Maine will never jeopardize the common welfare by failing to insist on the justice and indefeasible character of its claim, or by shrinking from a firm assertion of it in any alternative," he continued, that it was "with regret, not unmingled with mortification, that he considered the denial of the use of the reports and arguments of the Commissioners under the treaty of Ghent. \* \* \* Maine had sought information only as an interest vital to herself, as well as important to the country, without any purpose calculated to excite distrust, with only such patriotic views as have rendered the refusal to comply with her request a subject of that species of surprise which a friend, predetermined to take no offence, feels when he is not treated with correspondent confidence." The request for papers is renewed, under a promise that they shall be used only before the Legislature, and under the restrictions of confidential communications. The Governor then reminds Mr. Clay that it is a proposition which has been demonstrated by himself "so clearly as to have commanded general respect, that the abstraction of the territory of the

United States cannot be made by the treaty-making or executive power." Much more, then, he says, must the domain of a State be sacred. Referring to an expression of Mr. Gallatin, that an umpire, whether king or farmer, rarely decides on strict principles of law, and has always "a bias to try, if possible, to split the difference," he protests against any arrangement which will endanger the half from the circumstance of a wrongful claim to the whole, under the pitiful weakness which is liable to split the difference between right and wrong.

Mr. Clay writes the Governor on the seventh of May, giving lists of the papers and maps, copies of which would be furnished; and as to the others, he says they may be inspected by the Governor, or any agent of the State, confidentially.

On the twenty-ninth of May, Governor Lincoln, after referring to the discouraging character of his previous correspondence with the Secretary of State, says, "that having learned that the title of the State" to an extensive tract of country, "is involved in the details of a diplomatic arrangement conducted under the sanction of the executive department of the federal government, Maine, although not consulted, yet bound from deference to pay a due respect to reasons, the nature and force of which she is, from a studious and mysterious reserve, rendered unable to comprehend, believes that she ought to present her expostulation in regard to any measures threatening her injury." He understands that the question is not to be limited in the submission to the treaty line of 1783, and that the Sovereign may decide at pleasure on the whole subject, without being bound by the obligations of an oath; and that the Sovereign is one whose feelings will be prejudiced against a Republic accused of inordinate ambition. And he adds: "It is not in cold blood that I can anticipate the committing the destinies of Maine to an irresponsible arbiter to be found in a distant land, and necessarily

unqualified to act in the case. \* \* Suffice it to say that the proposed arbitration will jeopardize, without her consent and against her will, the rights of Maine. And allow me to add," continued the Governor, in those grave and strong words which stirred the blood of every true son of Maine to a boiling heat, and, reaching the department of State, brought the federal administration to a halt in what it had been apprehended were its purposes, "*that if called upon to make the required sacrifice, she will be compelled to deliberate on an alternative which will test the strictness of her principles and the firmness of her temper.*"

He reminds the President that when Massachusetts entered the Union "she yielded no right to dispose of her soil, or to abstract any part of it from her jurisdiction, \* \* nor to expose, without her consent, her dearly purchased and sacred rights to arbitrament." He warns him that the State of Maine "will not observe any procedure by the United States and Great Britain for the severance of her territory and the abrogation of her authority, without a sensibility too serious to be passive. *She holds that her domain is not the subject of partition.*" He puts the question in a paragraph: "No statesman will assert that the treaty-making power is competent to an act transcending the scope of the combined trusts of the government."

Recurring, as he could not help doing, to the effrontery of the British claim, with which our government permitted itself to be trifled with, he declares that "It may be confidently asserted not only that the provision of the treaty of 1783 is imperative, but that it describes our boundary with a precision which shames the British claim, and, connected with the making of that claim, casts a shadow over the lustre of the British character." He closes this remarkable letter with an expression of regret that the government should refuse the information con-

templated by a resolution of the State, but says he shall continue to hope for the preservation, under the protecting care of the government, of that now exposed territory, destined under any proprietor to be soon occupied by a numerous population, engaged in all the pursuits which sustain human life and adorn human nature."

This letter is acknowledged by Mr. Clay on the ninth of June, and the Governor is assured that the observations made therein shall receive due attention and respectful consideration, and that in no contingency is any arbitration contemplated of the difference between the two countries, but that for which provision has been solemnly made by treaty—that is, the question to be submitted shall concern alone the treaty line of 1783.

September third, the Governor informs the Secretary of State, that he has information of acts of encroachment and aggression upon our territory by the authorities of New Brunswick; that American settlers holding lands, under titles from Maine and Massachusetts, are denied the right to hold real estate, are taxed as aliens, and are refused the transmission of their products as American, while acts of jurisdiction are constantly exercised by these authorities. He then proceeds to show the value of this country to Maine and the United States, and the importance of excluding British control and jurisdiction. He refers to our right to the navigation of the river St. John by the law of nations, as recognized in the case of the Mississippi River, and to the wrong that will be done if this right is allowed to be successfully contested. He again informs the Department that Maine will never assent to the result of an arbitration unfavorable to her interests and in derogation of her rights.

On the fourteenth of September, Mr. Clay informs Governor Lincoln that he has advised the British minister that it is expected the necessary orders will be given on the part of the

British government to enforce forbearance from new acts tending to strengthen its claims. It will be remembered that an understanding had been come to between these parties, that there should be no "new" acts of this kind by either side.

Notwithstanding this agreement and notice, Governor Lincoln had occasion, on the twenty-second of October, to write the Lieutenant-Governor of New Brunswick, that he has information that one of the citizens of Maine, by the name of John Baker, while residing on its territory, has been arrested and detained in gaol at Fredericton, in that Province, and asks to be advised concerning the facts. He informs the Lieutenant-Governor that the attempt to extend the jurisdiction of New Brunswick over this territory will compel counter action from Maine. He says: "The arrest of our citizens on what we believe to be a part of our State, will demand its utmost energies for resistance."

The Lieutenant-Governor of New Brunswick, on the fifteenth of November, acknowledges the receipt of the above letter, but declines to give any information, on the ground that he is not permitted to give it except to those with whom he is directed to correspond, or under whose orders he is placed, and declines to have any further correspondence with the Governor of Maine. The scarcely veiled insolence of this reply, especially when considered in connection with the correspondence between Governor Fairfield and Lieutenant-Governor Harvey, hereafter referred to, is painfully apparent.

The Governor of Maine, however, came into possession of an official writ, by which it appeared that John Baker was ordered to appear and answer for that he had entered and intruded upon the lands of the King in the County of Kent, in the Province of New Brunswick, and erected and built thereon a house and other edifices, and cut and felled and carried away timber and

other trees, &c. This was alleged to have been done on land situated on the northerly side of the St. John River, and between the rivers Madawaska and St. Francis.

On the fifth of November, the Governor appointed Charles Stuart Daveis, Esquire, of Portland, agent, with authority to act in behalf of the State of Maine in obtaining information, either informally or by authenticated statements, as to all subjects relating to rights of property and jurisdiction between the government of the State and that of New Brunswick. Mr. Daveis took with him a letter from the Governor of Maine to the Lieut.-Governor of New Brunswick, advising the latter of Mr. Daveis' appointment, and its object, and stating that he was authorized to demand the release of Baker.

On the sixteenth of November, the Governor acknowledges the receipt of the documents (so long withheld) from the Department of State, but expresses his regret that, from the contents of the Secretary's letter of the tenth instant, he learns that the objections he has offered to arbitration, without consulting this State, have been unavailing. He adds, in a voice almost choked with grief: "At last we learn that our strength, security and wealth are to be subjected to the mercy of a foreign individual, who, it has been said by your minister, 'rarely decides upon strict principles of law, and has always a bias to try, if possible, to split the difference.' I CANNOT BUT YIELD TO THE IMPULSE OF SAYING, MOST RESPECTFULLY, THAT MAINE HAS NOT BEEN TREATED AS SHE HAS ENDEAVORED TO DESERVE."

He then informs the Secretary of the facts in the case of John Baker.

By this time, the excitement in the State, occasioned by the imprisonment of Baker and other acts by the Province of New Brunswick, had grown to such a heat, that Governor Lincoln

found it necessary, in order to prevent premature collisions, to issue a proclamation, in which he exhorted forbearance and peace on the part of citizens suffering or threatened with wrong, and those interested by sympathy and principle on account of the violation of our territory, "so that the preparations for preventing the removal of our landmarks, and guarding the sacred and inestimable rights of American citizens may not be embarrassed by any unauthorized acts."

Mr. Clay writes Governor Lincoln, on the twenty-seventh of November, that "the government of the United States is fully convinced that the right of the territory in dispute is with us, and not with Great Britain. The convictions of Maine are not stronger in respect to the validity of our title than those which are entertained by the President." But he reminds his correspondent that the United States is under treaty obligation to refer the question, and cannot refuse to carry out what it has pledged itself to perform.

Mr. Daveis, of whose appointment notice has been taken, visited Houlton and Fredericton this autumn. At the former place he met persons who had come from above Madawaska, and were enabled to report to him the condition of things in that section so fully that he did not deem it necessary to visit it in person. He gives, in a report made to the Governor Jan. 31, 1828, a succinct history of the progress of the settlements on the territory in dispute, by citizens of Maine and Massachusetts; of trespasses in the way of cutting timber by inhabitants of New Brunswick under license from that Province; of seizures from, and impositions upon, American citizens by Provincial authorities, by the service of precepts issued by magistrates in New Brunswick, on American citizens within their own lines; and the removal of property from this State by virtue of levies on executions issued by Provincial courts. New Brunswick

officials warned off American citizens from lands lying within forty miles from Houlton and west of the boundary line. American citizens were driven, by fear, from occupying their own houses to "lodging about in different places, in barns, or in the woods, mustering together for the night in larger or smaller parties, or separating for greater security." Mr. Daveis gives some account of the settlement of the Acadians on the river St. John after the peace of 1783, whose number, by the American census of 1820, was over eleven hundred. The first settlement by Americans in this neighborhood was, he reported, in 1817, and not far from the mouth of the river St. Francis. This settlement was made by several families from the County of Kennebec, in this State. Among them were those of Baker and Bacon, before referred to, who, in the year 1825, received deeds of their possessions from the land agents of Maine and Massachusetts, and who built a mill under the authority of these States. These American families entered into a compact between themselves, by which they agreed to submit all disputes and differences with each other to a tribunal of their own appointment. This was done to avoid and deny all British jurisdiction. It was to last only one year, as the settlers expected to receive, before the expiration of that time, from their State government, the protection of its regular and constituted authorities, for which they had petitioned. That this "home rule" might be properly inaugurated, the Americans assembled at John Baker's, and erected a staff and raised a rude representation of the American eagle, and they enjoyed a repast in the evening at his house, at which there were music and dancing. When these facts came to the knowledge of one Morehouse, a provincial magistrate who had on many occasions given annoyance, and inflicted injury and outrage upon citizens of this State living on their own soil, and sometimes on grants made

by Maine and Massachusetts, he presented himself at John Baker's and gave order for the removal of the American ensign, which Baker—thenceforward called General Baker—declined to obey. Morehouse then demanded the paper of agreement or compact, which Baker refused to deliver. About this time it so happened that Baker had made some inquiry of a Frenchman, who was carrying a mail, in respect to that service, which the latter misunderstood, and interpreted as indicating a purpose to interfere with its performance. Thereupon, Morehouse issued a warrant against Baker, and not him alone, but Bacon and one Charles Stetson also, as connected with him in such imputed interference.

Mr. Daveis continues his account in these words:

“Early in the evening of the twenty-fifth of September, soon after their return”—from Portland, where Baker and Bacon had been to report the state of affairs on the St. John, and to solicit aid from the State—“and while Baker and his family were asleep, the house was surrounded by an armed force, and entered by persons of a civil character and others armed with fusees, &c., who seized Baker in his bed, and conveyed him, without loss of time, out of the State. The particulars relating to this circumstance are detailed in the statement of Asahel Baker, a nephew of John Baker, who was first awakened by the entry. \* \* The person conducting the execution proved to be of high official character and personal respectability in the Province of New Brunswick. He was informed that papers were in the possession of Baker, justifying him under the authority of the States; but he replied that it was not in his power to attend to any remonstrance. No resistance was made by Baker, and no opportunity was afforded him to have intercourse with any friends and neighbors, from whom it was reasonable to suppose opposition might have been apprehended. Mr. Baker was carried before Morehouse, in obedience to the warrant; it does not appear that any examination took place, how-

ever, but that he was conveyed to Fredericton and there committed to gaol. The letter from your Excellency to the American inhabitants at the upper settlement, was delivered by him to the authority under which he was imprisoned, and after some detention restored to him.

“The immediate impression produced among the inhabitants of the settlement by this circumstance, may appear from the further statement of Asahel Baker. He was the person employed to bring a representation from them of the arrest of John Baker, which was deposited by him in the first post office he reached in Kennebec. He was absent some days, and on his return found that several of the inhabitants had departed. It appears that in the interim the alien tax had been again demanded, and process had been served upon the American settlers, generally, similar to that which had been previously served on the Aroostook, indiscriminately, to appear at Fredericton in October, to answer to suits for trespass and intrusion on Crown lands, under the penalty of one hundred pounds. It is understood that the service of this process was extended to the American settlers towards the St. Francis and upon the Fish River, where the road laid out by the Legislatures of the two States terminates. In consequence of these circumstances, it appears that three of the American settlers, Charles Stetson, Jacob Goldthwait and Charles Smart have parted with their possessions and removed from the settlement into the plantation of Houlton, where they are at present seeking subsistence. Stetson was a blacksmith, in good business, and was concerned in the measure relating to Morehouse. The motives and particulars of their departure are stated by them in their respective affidavits.

“In the precarious state of their affairs, it is probable that no certain estimate can be formed of their sacrifices; but it is evident that the measures made use of towards the inhabitants in general, for whatever purpose, have had the effect to expel a portion of them, and to intimidate the remainder. \* \* It is evident that a corresponding application of judicial proceedings has been made

from the Province of New Brunswick upon all the settlements above and below the French occupation of Madawaska, tending to their extermination; and that the inhabitants are awaiting, in a state of fearful anxiety, the final execution, from which they see no prospect of relief."

These proceedings were justified and adopted, if not previously authorized, by Sir Howard Douglass, Lieut.-Governor of New Brunswick, and by Mr. Vaughan, the British Minister at Washington, as appears by a letter from the latter to Mr. Clay, November 21, 1827.

The results of these doings were summed up by Mr. Davis as follows:

"Citizens of Maine, and others settled on lands surveyed and granted by its authority, living within its ancient and long-established limits, are subjected to the operation of foreign laws. These are applied to them in the ordinary course of civil process, in taking away their property, and also their persons. American citizens in this State are proceeded against as aliens, for sedition and other offences, and misdemeanors against the Crown of Great Britain; and one of them, a grantee of Massachusetts and Maine, seized on the land granted, remains in prison on charges of that description."

When these facts became known to the people and the Legislature of the State, there was a deep feeling of indignation at the wrong and outrage; and the only wonder to-day is, that it could have been restrained to peaceable expressions and protests. To us, the patience with which these encroachments and insults were borne is simply incredible.

When the Legislature assembled in January, 1828, Governor Lincoln had received the documents and papers, which he had been unable to obtain before. He announced to that body the fact that an arbitration had been entered into between the two

governments, and he called its attention to the claim of temporary jurisdiction by New Brunswick, to the arrest and imprisonment of Baker, and the report of Mr. Daveis. He declared: "Maine cannot abandon its obligations, its title deeds and its rights. It cannot allow its citizens to be incarcerated in foreign gaols. The State would shrink most dreadfully under the shame of such a submission." In this arbitration, the King of the Netherlands was made the umpire.

The Legislature took up the subject in a manner that showed that, while not unmindful of its relations and duties to the federal government, nor willing unnecessarily to embarrass it, it had a painful sense of the wrong and injury the State had received. Hon. John G. Deane, on behalf of a joint Select Committee, made a report so full, so accurate, so absolutely conclusive of every question, as to leave nothing more to be said for the vindication of our claims and of our interpretation of the treaty of 1783. A Resolve was passed, demanding defence and protection from the United States; and, in case of new aggressions, authorizing the Governor, if seasonable protection is not afforded by the general government, to use all proper and constitutional means to protect and defend our citizens; and calling for a demand upon the British government for the release of John Baker; also, providing for the relief of his family.

Governor Lincoln, in his last annual message, which he addressed to the Legislature in January, 1829, a few months before his lamented death, refers to the vigorous action of the preceding Legislature, from which he thinks some practical results may have come, and he mentions, among these, its good effect upon the nation. The President, he says, has yielded every possible support; a garrison has been established upon our frontier, an agent from among ourselves has been appointed, a military road has been provided for, and Baker's case has been

assumed by the United States; and, besides this, the character of the King of the Netherlands is such as to give ground of hope that the decision will be a just one.

The Legislature passed an act "to prevent foreigners from exercising acts of jurisdiction within this State, by serving civil or criminal process."

In 1830, Jonathan G. Hunton was Governor, but nothing of special interest relating to this question seems to have taken place during his administration.

In 1831, Governor Samuel E. Smith refers to the delay that has arisen in reaching a decision by the umpire, and suggests that it may have occurred from the disturbances that had taken place in his own kingdom, and which, by depriving him of the greatest portion of his kingdom, had made him a dependent on Great Britain. He doubted whether under these circumstances he ought to act, or could properly act, as umpire. He says: "Whatever confidence may be put in the justice of our cause, however clearly our right may be shewn in argument, we certainly could not be willing to submit it to the umpirage of a sovereign who is not only the ally, but who, by the force of circumstances, may have become, in some measure, the dependent ally of Great Britain."

That England, after this event, should have insisted upon proceeding with the arbitration, was scarcely less than an indecency and an affront, and one wonders at the good nature and blindness to injury which still continued to mark the temper and conduct of the United States.

The question submitted to the King of the Netherlands remained to be decided by the King of Holland.

But the Governor takes encouragement after this protest, from the appointment of a Minister, by whom the case was to

be presented to the umpire, from among our own citizens, of one so able and well-informed as the Hon. William Pitt Preble.

Albert Gallatin, an experienced diplomatist, and a man of historic reputation, and Judge Preble, of Portland, had been designated during the administration of Mr. Adams, to manage the case before the umpire; and when the appointment of Judge Preble as *Minister* was made by President Jackson, the valuable assistance of Mr. Daveis was secured to him by the government.

Governor Smith took leave of this subject in his message for 1831, by saying that he was not aware that anything at present remained to be done by the Legislature that could facilitate the inquiry, or affect the result.

On the tenth of January, 1831, the King of Holland made his report—award it could not be called. He found himself unable or unwilling to decide where the line ought to be run, but said :

“ We are of opinion that it will be suitable (*il conviendra*) to adopt as the boundary of the two States, a line drawn due north from the source of the river St. Croix, to a point where it intersects the middle of the thalweg (*i. e.* deepest channel) of the river St. John, ascending it to the point where the river St. Francis empties itself into the river St. John, thence the middle of the thalweg of the river St. Francis to the source of its uppermost branch, which source we indicate on the map A by the X, authenticated by the signature of our minister of Foreign Affairs, thence a line drawn due west to a point where it unites with a line claimed by the United States of America, and delineated on the map A, thence said line to the point at which, according to said maps, it coincides with that claimed by Great Britain, thence the line traced in the map by the two powers to the north-westernmost source of the Connecticut River.”

The King further expresses the opinion that it would be suitable that the line from the Connecticut River to the St. Lawrence should be so drawn as to include in the United States, the fort at Rouse's Point, and its kilometrical radius.

It is abundantly certain from the whole report and proceedings that the King could not adopt the British claim, and did not wish to accept that of the United States, and so, to avoid a decision, contented himself by making a recommendation. A higher indirect concession to the American claim it would be difficult to imagine.

On the twelfth of January, our Minister, Judge Preble, made a protest against the proceeding, "as constituting a departure from the power delegated by the high parties interested."

Unofficial intelligence of the report of the King of Holland was received in Maine during the session of the Legislature, and occasioned much uneasiness. A joint-select committee made a vigorous report, in which were no sounds of uncertainty or fear, through Col. Deane. It said :

"If the Government of the United States can cede a portion of an independent State to a foreign government, she can, by the same principle, cede the whole ; or if to a foreign government, she can, by the same principle, annex one State to another until the whole are consolidated, and she becomes the sole Sovereign and lawgiver, without any check to her exercise of power."

It is not to be answered that the treaty-making power has, from the necessity of the case, ample authority to decide disputes between the nation and other nations, whether they refer to boundaries or anything else. This nation has no right under the treaty-making power to *cede* the territory of any State—the title to which in the State, it affirms. In this case, the United States, by Congress as well as by the Executive Department, as had also the Legislatures of Maine and Massachusetts and of

most the other States, declared repeatedly and in the most emphatic and unequivocal terms, that the right of Maine was "clear and unquestionable." Her title was as clear to Madawaska as to Portland, and a cession or sale of the latter would be quite as objectionable and unconstitutional as a transfer of the former.

This committee reported Resolves, which were passed, declaring "That the convention of 1827 tended to violate the Constitution of the United States, and to impair the sovereign rights and powers of the State of Maine, and that Maine is not bound by the Constitution to submit to the decision which has been, or shall be, made under that convention." Also, that whereas the submission was to the King of the Netherlands, an independent Sovereign, exercising dominion over six millions of people, and whereas, by the force of liberal opinions in Belgium, he was deprived of more than half of his dominions, and his dependence on Great Britain for holding his power, even in Holland, was increased, and, inasmuch as he had made no decision before his kingdom was dismembered by his own consent, and his public character changed, it was resolved that the award "cannot and ought not to be considered obligatory upon the government of the United States, either on the principles of right and justice, or of honor." And further, "that no decision made by an umpire under any circumstances, if the decision dismembers a State, has or can have any constitutional force or obligation upon the State thus dismembered, unless the State adopt and sanction the decision."

On the eighteenth of March, Mr. Van Buren, Secretary of State, communicated the report of the King of Holland to the Governor of Maine, with a request, in substance, that pending its consideration at Washington, Maine should keep quiet and behave herself.

Governor Smith transmitted the papers to the Legislature on

the twenty-fifth of March, with a message which endorsed and commended the advice of Mr. Van Buren as to good behavior on the part of the people of Maine and their representatives. But the Legislature was scarcely in a temper to appreciate this advice in the sense in which it was given. It had yet some sense of honor, duty and self respect; and on the thirtieth of March it made its answer to the President, in which it plainly told him that "there are rights which a free people cannot yield, and there are encroachments upon such rights which ought to be resisted and prevented, or the people have no assurance of the continuance of their liberties." The report took up the opinion of the King, and the question of his right to act after he had ceased to be Sovereign of the Netherlands, and by facts incontestible and by invincible logic, showed that the opinion was in no sense binding either upon the United States or the State of Maine, and declared that "if the United States should adopt the document as a decision, it will be in violation of the constitutional rights of the State of Maine, which she cannot yield."

A copy of this report of the Legislature was ordered to be sent to the President of the United States and to the Governors of the several States.

Governor Smith, it will be remembered, had, in his annual message a few weeks before, referred to the change which had taken place in the relations of the umpire since the submission was made, and expressed the unwillingness the State would feel to submit the question to the decision of a sovereign who was the ally, and might become the dependent ally, of the contesting party. The legislative report had but echoed this opinion. Acting in its spirit, and in view of the whole situation, and in full harmony, as was supposed, with the views of the Governor (for as yet he had not heard from Mr. Van Buren),

the Legislature, on the fifteenth of March, 1831, passed an Act, which received the approval of the Governor, to incorporate the town of Madawaska, by which the inhabitants thereof were declared to be "subject to the same duties and liabilities, and vested with the privileges and immunities which other incorporated towns are within this State." Any Justice of Peace within the County of Penobscot, or any Justice throughout the State, was empowered to issue his warrant to any inhabitant of the place, directing him to notify a meeting for the choice of officers. In conformity to this Act, a warrant was issued by William D. Williamson, Esquire, a Justice of the Peace throughout the State, directed to Walter Powers, an inhabitant of Madawaska, to notify the inhabitants of that town to meet at the house of Peter Lezart to organize the town and elect town officers. The meeting was duly called and held in August, but its proceedings were interrupted and delayed by interference and threats on the part of Leonard B. Coombs, a Captain of Militia, and Francis Rice, a Justice of the Peace, holding commissions from the Province of New Brunswick. But the inhabitants present, about fifty in number, persevered in their work and elected town officers. Another town meeting, at which eighty inhabitants were present, was held on the second Monday of September, 1831, being the day of the State election, at the house of Raphael Martin, when Peter Lezart was elected a representative to the State Legislature. Rice was present at this meeting, also, interrupting it, and using language of menace and abuse. He took the names of the persons voting at the meeting. On the twenty-fifth of the month, a military force was collected at the chapel in Madawaska, by Provincial authority, and repaired to the house of one Simon Herbert, further up the river, where they were attended by the Lieutenant-Governor of New Brunswick. This force succeeded in arresting Daniel Savage, Jesse

Wheelock, Barnabas Hunnewell, Daniel Bean and several others, and held them prisoners for the offence of acting at the town meeting. John Baker escaped to the woods, and finally came to Portland, where, on the twelfth of October, he gave to the Governor a detailed statement of the facts, to which he made oath before Francis O. J. Smith, Esquire, Justice of the Peace. Wheelock and Savage, who were arrested as above stated, addressed a letter to Roscoe G. Greene, Secretary of State, in which they informed him of the circumstances of their arrest. They said:

“His Excellency, Sir Archibald Campbell, Lieutenant-Governor and Commander-in-Chief of the Province of New Brunswick, arrived here on the twenty-third instant, with one Colonel, one Captain of the Militia, the Attorney-General of the Province and Mr. McLaughlan; also, by the Sheriff of the County of York. On the twenty-fourth they directed warrants to be issued against all those who had acted at said meetings. \* \* We were arrested on the twenty-fifth. \* \* On the twenty-sixth the Sheriff and Captain Coombs and some militia ascended the river to Mr. Baker's to arrest those in that neighborhood; thence to St. Francis River, expecting to return to-day, when we are to be immediately sent to Fredericton gaol. When the rest of our unfortunate countrymen arrive we will enlist their names and numbers, together with what other information shall come to our knowledge. The families of them will be left in a deplorable situation unless their country will immediately release them. \* \* We are now descending the river, twenty miles above Woodstock.”

Of these persons, Savage, Wheelock and Hunnewell were arraigned before the Supreme Court of New Brunswick, and sentenced to pay a fine of fifty pounds and be imprisoned three months, and were accordingly thrown into prison at Fredericton.

Down to the period covered by these proceedings, with the

single exception, if such it may be regarded, of the Governor's message in March, I find no blot on the history of this State, nothing to be ashamed of, nothing to hide the head for, but a constant exhibition of elevated and dignified patriotism—a proper regard for the integrity and honor of the Commonwealth.

But after this, succeeds a term which we might well desire to have expunged from our annals.

The Senate of the United States had rejected the recommendation of the King of Holland, and new negotiations were in contemplation at Washington, when the intelligence was received there from the Governor of Maine of the proceedings at Madawaska, and the arrest of Wheelock and others. The administration was greatly disturbed, and communicated its displeasure to Governor Smith. He, on the twelfth of October, replied that:

“An Act was passed by the Legislature of this State at the last session to incorporate the town of Madawaska, which is bounded, in part, by the line of the State. By this Act and some others, I understood it was intended by the Legislature to assert the claim of the State to jurisdiction over that portion of the territory which they knew to be within the limits of Maine; and that it was not to be carried into effect until circumstances should render it proper and expedient. This measure is said to have been adopted by the inhabitants of that territory, voluntarily organizing themselves into a corporation; was unexpected by me, and done without my knowledge.”

What a spectacle is here! The Secretary of State of the United States had written the Governor of Maine a sharp letter, reproving the State, in effect, for its independent and proper action. And the Chief Magistrate, who but a few months before had been so earnest, who had approved an act to incor-

porate the town, when the people thereof, in good faith, supposing the act of the Legislature meant what it said—as indeed it did, as everybody conversant with its history well knew—went to work, and in conformity to its provisions organized the town—instead of planting himself firmly upon the act of the Legislature and the doings of his people, starts back, like Fear in Collins’ Ode,

“E’en at the sound himself had made.”

To this excuse and protestation, Secretary Livingston made reply in a letter of such tone and language as no Governor of a State should permit to be addressed to him, without indignant remonstrance, to say the least. He told him that the President could not “consider the *continuance of the occupation*” (of Maine) “*by the officers, civil and military, of the British Province as an invasion* ; but will take all proper measures to procure the release of the *ill-advised persons* who have been the cause of this disturbance.”

ILL-ADVISED PERSONS ! Who gave them the ill advice ? The Legislature of Maine and the Governor of Maine ! These and no others, and in the most unequivocal and solemn manner. Of the important facts the Secretary had learned enough to render his language as direct and pointed a rebuke to the Legislature and Executive authorities of the State, as it was possible to make. How, may it be imagined, would Enoch Lincoln have received words like these—words that should

“Kindle cowards, and steel with valor  
The melting spirits of women” ?

But whatever the amount of reproof and insolence the Secretary of State was pleased to visit upon the Governor of Maine, he made ample amends for it in his disgraceful obsequiousness

to the British minister. To show the humiliation with which the government was pleased to clothe itself, and, with the consent of her Executive, the State of Maine, it is only necessary to quote from a letter of Mr. Livingston to Mr. Bankhead, the British Minister, on the fifteenth of October, 1831. Transmitting extracts from Governor Smith's letter, before referred to, he says :

“ You will perceive that the election of town officers in the settlement of Madawaska, of which complaint was made in the papers enclosed in your letter, was made under color of a *general* law, which was not intended, by either the executive or legislative authority, to be executed in that settlement, and that the whole was the work of *inconsiderate individuals*.”

One can hardly conceive a statement more crowded with errors of fact than this. In the first place, as we have seen, there was a gross error in the assertion that the incorporation of the town of Madawaska was under a general law, and not by a special act; and that the action of the inhabitants was not contemplated by the State, was an error equally manifest.

If the Legislature of Maine, with the approval of the Governor, set itself to the work of passing a special act of incorporation, was it in accordance with a proper respect for the honor of the State, to assert that it was not intended that the power should be exercised; that it was simply a paper defiance from a safe distance—a mere *brutum fulmen*? That while Judge Williamson, the historian of Maine, was issuing his warrant to Mr. Powers for the organization of the town, and the purpose was being executed in the knowledge of the whole State, and all the public journals were seriously discussing it, the State itself was, after all, only playing the lion's part, after the manner of Nick Bottom, the weaver?

Instead of demanding, in a firm and becoming tone, the immediate release of the citizens of Maine, who had been imprisoned in a foreign gaol for the offence of acting in obedience to the laws of their State, the Secretary says to Mr. Bankhead: "*I respectfully suggest the propriety of your commending to the Lieutenant-Governor of New Brunswick the release of the prisoners.*"

Having, by these apologies and humble petitions from the American Secretary, obtained what he assumed to regard as a practical recognition of the provincial claim of exclusive jurisdiction, the British government graciously consented to the release. This is not pleasant reading. It makes one neither happy nor proud. The State made no protest—uttered no word of grave remonstrance.

Upon the assembling of the Legislature of 1832, the Governor recited at some length, in his message, the transactions of the preceding autumn, and informed that body that, through the intervention of the President, Wheelock and the other prisoners had been released.

On the twenty-second of February, the Governor made a communication to the Legislature, in secret session, in which he said he had been informed by Judge Preble, the agent of the State at Washington, that the award of the King would eventually be adopted by our government; that Maine would receive pecuniary indemnity if she would cede her territory lying outside of the line of the award. He urged promptness of action on the part of the Legislature.

The President was anxious that some arrangement should be made by which Maine would consent to abide by the line of the King; and the Congressional delegation from the State, with the exception of Mr. Evans (who opposed the proposition in a letter marked by the incisiveness and vigor which charac-

terized alike the forensic and political efforts of this very great man), wrote Judge Preble in favor of submitting the plan to the Legislature.

The question was discussed by the Legislature, with closed doors, and finally a resolution was passed authorizing the Governor to appoint three Commissioners to see what terms and conditions could be arranged, and report to the Legislature for its action. The commission was constituted by the appointment of three eminent and able gentlemen—William Pitt Preble, Reuel Williams and Nicholas Emery. The President appointed on the part of the United States, as Commissioners to confer with those from Maine, the Secretary of State, Edward Livingston; the Secretary of the Treasury, Louis McLane; the Secretary of the Navy, Levi Woodbury. When our Commissioners reached Washington, they found there a public opinion that demanded urgently and almost imperatively, a settlement of the vexed and long-disturbing question. The commerce and business of the country,—all its industrial, commercial and financial interests, in fact,—called for a removal of the causes of apprehension that the peace of the country might be ruptured; and New York, as Governor Parris had predicted years before she would make known, wanted Rouse's Point. The whole power of the administration, a nearly united South, and the commercial interests of the North, were brought to bear upon the Commissioners. They were warned that, if they did not consent to the new line, the question would be submitted to another arbitration. Thus pressed, they finally consented to submit certain propositions to the Legislature of the State. Perhaps they could have done no less under all the circumstances. It was not for them they considered, as I imagine, to debar the State of an opportunity for considering, through its Legislature, the propositions which the Commissioners of the

United States were prepared to make. These were in substance a new line, which, if not entirely coincident with, was yet on the basis of the King of Holland's recommendation, and one million of acres of land in Michigan, which, at the minimum government price, was worth \$1,250,000, and probably much more than this sum in fact. If a conventional line, not involving an exchange of territory, were admissible at all, these terms should not probably be regarded as unreasonable in amount, however humiliating in respect to the source from which they proceeded.

But Maine had never ceased to feel an invincible repugnance to the idea of selling her territory for cash, or cash equivalents, still less of abandoning her citizens, exchanging them as well as her soil for counters. And so when it was known, in the winter of 1832, that the Legislature had resolved itself into secret session to consider propositions for a settlement of the question by a conventional line, the fears of the people were aroused and an intense excitement was created. Reports, more or less correct, of the doings in secret session were circulated among the people and appeared in the newspapers. Startling headings arrested the eyes of the people. "MAINE SOLD OUT!" "MAINE IN THE MARKET!" "OUR FELLOW CITIZENS TRANSFERRED TO A FOREIGN POWER FOR CASH OR LAND!"

An anonymous letter, evidently written by a member or officer of the Legislature, indicating the passage of a Resolve (such as was in fact passed on the third of March), was printed in the *Kennebec Journal*, which, in connection with the events growing out of its publication, inflamed still more the public feeling. The name of the author was demanded of the editor, Hon. Luther Severance, who, upon his refusal to divulge it, was committed to the Augusta gaol for contempt, from which, however, he was soon released.

In this excited condition of the popular mind, the Legislature adjourned, and its members returned to their homes to meet there alarmed and indignant constituencies. A speech from Jacob Ludden, a Democratic representative from Canton, in Oxford County, delivered in secret session, and published in the *Portland Advertiser* of the twenty-seventh of February, had touched the popular chord, and was quoted everywhere. AN HONEST MAN, was the heading of the speech. Said Mr. Ludden :

“Our agent at Washington says we can make a better bargain if we take land than if we trade for cash ! What, sir ! bargain our American territory and American citizens for land or cash ? Sell our citizens without their consent ! Sell them to the British, and to become subjects of a British King ! Sir, history informs us of only one solitary instance in this republic where a bargain of this kind was ever attempted ; and that was at West Point, in the secret session held by Benedict Arnold and Major André. Our title to the territory is indisputable. It was purchased for us. The price was blood—the blood of our fathers. And shall we, sir, like Esau, sell our birthright for a mess of pottage ? No sir ! heaven protect us from such disgrace. \* \* Sir, whoever this day votes for this disgraceful bargain will, I trust, live to see the time when the finger of scorn shall be pointed at him, and shall hear the contemptuous expression, ‘You are one of the number who voted to sell a part of your country !’ Yes, sir, we sell not only a part of our country, but our fellow citizens with it ; and among these citizens a member of this House, legally chosen by order of the constituted authorities of this State, and who has as good a right to his seat as any member on this floor. Sir, I enter my solemn protest against these whole proceedings.”

Public meetings were held in many of the towns—especially in the country towns—of the State, indignantly and solemnly protesting against and denouncing “these whole proceedings,”

calling upon the State authorities, upon our members of Congress and the federal government to arrest them, and to take prompt and vigorous measures to vindicate the honor of the State and nation, and to preserve their territory in its integrity.

At a Fourth of July celebration, in Augusta, the sentiment, "*Our brethren of Madawaska—a little too white to be sold!*" was drunk with tremendous applause, was published in the newspapers of the State, and of other States, was echoed in highway and byway, and repeated in the homes of the people.

The result was, that the project fell through; failed utterly, not to say ignominiously. In the Legislature of the next year a Resolve was passed—on the fourth of March, 1833—which repealed so much of the Resolve of the previous year under which Commissioners had been appointed to arrange provisional terms of adjustment, as provided for the submission of their report to the Legislature, and passed another Resolve to the effect "that no arrangement, provisional arrangement or treaty already made, or that may hereafter be made, or in pursuance of the Resolve to which this is additional, shall have any binding force, effect or operation until the same shall have been submitted to the people of this State in their primary assemblies, and approved by a majority of their votes." And yet, within ten short years, and without submission to a vote of the people, this territory, "invaluable," as Governor Lincoln had declared it, these fellow citizens of ours—"a little too white to be sold" in 1832—John Baker, holding title deeds from the two States, wife and children—"all my pretty chickens and their dam"—Wheelock, Bacon and their families, Peter Lezart, too, the representative, and hundreds more, were transferred and conveyed to a foreign Crown!

Nothing more of importance happened within the State in

1833, but at Washington, as will be seen, propositions of grave and dangerous import were being considered.

When the Legislature of 1834 assembled, it was addressed by Governor Dunlap, in a message which reminded that body of the mistakes which had been made, and expressed a hope that, since we had escaped the dangers impending therefrom, there was "a way now open for the ultimate attainment of our rights."

How blind and devious was the way in which the State department at Washington was disposed to walk, Governor Dunlap did not then know. Subsequent to the rejection, in 1832, of the advice of the King of Holland, the Senate passed a resolution advising the President to open a new negotiation "according to the Treaty of Peace of 1783." Mr. Livingston was Secretary of State, and he renewed the negotiation in a manner which only an ascription of the grossest ignorance or stupidity on his part could rescue from the imputation of infidelity to the cause whose defence had been placed in his hands. He began by a half admission that the treaty could not be executed. He violated the express instructions under which he was acting, by suggesting to the British Minister that Maine would probably give her consent to a conventional line. On the thirtieth of April, 1833, he wrote a letter to Mr. Vaughan, the British Minister, in which he intimated that a line might be drawn from the monument to the highlands, though these highlands should not be found due north from the monument, and when the British Minister objected, that such a line might reach highlands *east* of the meridian of the St. Croix, Mr. Livingston hastens to reply (the twenty-eighth of May), that "the American government can make no pretensions to go further east than that (a due north) line; but if, on a more accurate survey, it should be found that the line mentioned in the treaty should pass each of the highlands therein described, and that they should be found

at some point further *west*, then the principles to which I refer would apply, to wit: that the direction of the line to connect the two natural boundaries must be altered, so as to suit their ascertained position." Well might a committee of the Legislature of Massachusetts say, "It is with extreme mortification that we contemplate this subject. We see, or think we see, that not only the honor of the nation, but the sovereignty of Maine and the interest of Massachusetts\* have been totally disregarded."

During the years 1835, 1836 and 1837, matters remained very much in *statu quo*, except that during all this time the government and people of New Brunswick were gradually pushing their claims to the occupation and jurisdiction of the territory in dispute. The *London Chronicle* of the twenty-eighth of May, 1831, had said: "The disputed territory is now in our possession, and as we believe right is on our side, we would recommend the government not to part with it. Besides, *possession is nine points of the law*." This advice had not been unheeded by the British authorities on either side of the Atlantic. The object seemed to be to gain time and put off negotiations until the British claims should be strengthened by length of possession and renewed and multiplied acts of jurisdiction and sovereignty. For, notwithstanding the covenants of neutrality between the powers, they were constantly violated, and with impunity, by the authorities and people of New Brunswick.

So far had these encroachments extended before the close of the administration of Governor Dunlap, that, in his annual message for 1837, he felt constrained to address the Legislature in these strong and earnest terms:

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\* It will be remembered that, at this time, Massachusetts was joint owner with Maine of the *soil* of the undivided wild lands of the latter State.

“It must be conceded that our people and their State government have exercised a most liberal forbearance upon the subject, considering the series of years it has been agitated, and the successive incidental circumstances calculated to excite and aggravate popular feeling. Our soil and our sovereignty have been invaded. Over a portion of domain of incalculable value, owned jointly by this and our parent Commonwealth, an attempt has been made to establish an adverse claim. The jurisdiction of the State has been rendered inoperative, either for the protection of our soil or of our injured inhabitants. Under color of authority from a foreign government, our unoffending citizens, in time of peace, have been forced from their rightful homes, and dragged beyond the limits of the State. Trials for imaginary crimes have been instituted against them, and, upon our brethren, guilty of no offence, and charged with no wrong, the indignities of a foreign gaol have been imposed. Our political system has lodged, in the first instance, the power and the duty of protection with the federal government. To that government we have appealed, but relief has not come. Our lands are sequestered, our sovereignty is insulted and our injured citizens are unredressed. In this state of things, is it not due to our own self-respect as well as to the cause of justice, that the State of Maine should insist on being immediately placed by the government of the United States into the possession of the invaluable rights from which she has been so long excluded?”

It is not easy to see how the case could have been presented more cogently and eloquently than it was in these noble words of Governor Dunlap. An earnest and able report was made to the Legislature by the joint committee, to which the question had been referred; and the following Resolves were passed by the Legislature:

*“Resolved,* That we view with much solicitude the British usurpations and encroachments on the north-easterly part of the territory of this State.

*“Resolved,* That pretensions so groundless and extravagant indicate a spirit of hostility which we had no reason to expect from a nation with whom we are at peace.

*“Resolved,* That vigilance, resolution, firmness and union on the part of this State are necessary in this state of the controversy.

*“Resolved,* That the Governor be authorized and requested to call on the President of the United States to cause the north-eastern boundary of this State to be explored and surveyed and monuments erected, according to the treaty of 1783.

*“Resolved,* That the co-operation of Massachusetts be requested.

*“Resolved,* That our Senators be *instructed* and our Representatives be *requested* to endeavor to obtain a speedy adjustment of the controversy.”

Copies of the Report and Resolves were ordered to be sent to the President, the Governor of Massachusetts, to our Senators and Representatives in Congress, and to the Governors and Senators of all the other States.

Here was notice, at last, that could not be mistaken, that the patience of the State was exhausted, and that the policy which had prevailed for several years, could not be continued without endangering the harmony of the relations heretofore subsisting between the State and the nation.

The successor of Governor Dunlap was Edward Kent, and he came to the office of Governor in 1838, charged with the spirit which had been manifested by Governor Dunlap and the Legislature of 1837.

In his annual message, he went over the essential points of the controversy, as it then stood, with great clearness and force. He said:

“It has required, and still requires, all the talents of her” (England’s) “statesmen and skill of her diplomatists, to render that obscure and indefinite which is clear and unambiguous. I

cannot for a moment doubt that if the same question should arise in private life, in relation to the boundaries of adjacent farms, with the same evidence and the same arguments, it would be decided in any court, in any civilized country, without hesitation or doubt, according to our claims."

But Great Britain desired, and was determined to have, direct communication between her lower and upper Provinces, and believed it to be obtainable only by way of the Madawaska River and Temiscouata Lake. She sought it for a long time as a favor, that is, as a grant without an equivalent. She had come to demand it, and with it about one-third of our territory, as her right.

Previous to Governor Kent's term, in the year 1837, Ebenezer S. Greeley, of Dover, had been appointed by the State authorities to take the census of Madawaska, that the people living there might receive their portion of the "surplus revenue," as it was called, which, by an act of the Legislature, was to be divided, *per capita*, among the people of the State. He was arrested by the Provincial authorities while in the performance of this duty. Referring to the case, the Governor said :

"A citizen of our State, Ebenezer S. Greeley, now lies imprisoned at Fredericton, seized, as it is said, for exercising power delegated to him under a law of this State. The facts connected with this arrest are unknown to me, and I therefore forbear to comment at this time upon them. But if the facts are that he was so seized, for such a lawful act, the dignity and sovereignty of the State demand his immediate release."

Here, it will be observed, no humble request, such as was addressed to Mr. Bankhead, is contemplated, but a peremptory demand. The Governor continues :

"I am aware that we are met by the assertion that the parties have agreed to permit the actual jurisdiction to remain, pending

the negotiation as it existed before. I have yet seen no evidence that such an agreement was formally entered into by the parties. But certainly Maine was no party to such an understanding; and at all events, it never could have been intended to be perpetually binding, or to extend beyond the termination of the then pending negotiation. That negotiation is ended. The old ground of claim at Mars Hill is abandoned; a new allegation is made—that the treaty cannot be executed and must be set aside. In the meantime this wardenship”—New Brunswick, it should be said, had appointed one McLaughlan Warden of all this territory—“is established, and all claim to absolute jurisdiction, not merely at Madawaska, but over the whole territory north, is asserted and enforced. If this jurisdiction is to be tolerated and acquiesced in indefinitely, we can easily see why negotiation lags, and two years elapse between a proposition and the reply.”

Referring to the latest phase of the British contention, of which Governor Kent makes mention, viz: “that the treaty cannot be executed,” it is curious to note the changes that had taken place in the pretensions of Great Britain since the treaty was made. At first, and until the Treaty of Ghent, the conceded line was north of the river St. John, and upon the St. Lawrence water-shed. Subsequently to 1817, for some ten years, it was at Mars Hill. After this, it was discovered that there had been a mistake made in determining the source of the river St. Croix; it was, in fact, at the head of the western branch, and so the highlands contemplated in the treaty of peace were those which divided the waters of the Penobscot and the Kennebec, on one side, from those of the St. John on the other. But these claims were so palpably absurd and contradictory, and were so thoroughly exploded by the Legislatures of Maine and Massachusetts, by their Governors and statesmen, that England was fain to abandon them, one after another, and rely upon the assumption that the treaty could not be executed, by

reason of the uncertain and contradictory character of its language.

To return to the message of Governor Kent. He urged that the first duty of the State was to claim the immediate and efficient action of the general government; said that her rights must be vindicated and maintained, "and, if all appeals for aid and protection are in vain and her constitutional rights are disregarded, forbearance may cease to be a virtue, and, in the language of the lamented Lincoln, Maine 'may be compelled to deliberate on an alternative which will test the strictness of her principles and the firmness of her temper.'"

"I confess," said the Governor, in bringing his observations on this subject to a close, "that my convictions are strong that Maine has been wronged by a foreign government and neglected by her own; and I do not understand the diplomatic art of softening the expression of unpalatable truths."

The earnest language of Governors Dunlap and Kent, and the Resolves of the Legislature, had the effect to awaken the general government to a more vigorous effort than it had put forth for a long time, towards effecting an adjustment of the question. John Forsyth, of Georgia, had become Secretary of State, and on the first of March, 1838, he addressed a long communication to Governor Kent, enclosing copies of a protracted correspondence between him and Mr. Fox, the British Minister, on the subject of the boundary, and requesting the Governor to take the sense of the State as to the opening of direct negotiation for a conventional line. He conceded that such a line could not be established without the assent of the State of Maine. This communication, with the accompanying correspondence, was by the Governor transmitted to the Legislature, with a message, in which he reviewed, to some extent, the history of previous negotiations, and stated the objections

which, to his mind, bore against any volunteering of propositions for a conventional line. He said: "I fear that if we abandon the treaty language, so clear and so decided in our favor, and so much at variance with their claim, we shall leave a certainty for an uncertainty, and throw doubt, confusion and embarrassment over our claim and our course of action, and yield to Great Britain the great obstacle we now present to her grasping spirit—the solemn treaty of 1783."

The Legislature, concurring in opinion with Governor Kent, on the twenty-fourth of March, 1838,

*"Resolved,* That it is not expedient to give the assent of the State to the federal government, to treat with that of Great Britain for a conventional line, but that this State will insist on the line established by the treaty of 1783."

It also resolved, that, believing it to be a grave question whether the treaty of Ghent, referring to arbitration, had not done its office, and was therefore no longer in force, the State was not prepared to give her consent to a new arbiter. Our members of Congress were requested to urge the passage of the bill before that body, providing for the survey of the north-eastern boundary of the United States.

In the event that the bill should not be passed, and the federal government should fail, either in conjunction with that of Great Britain, or alone, to make the survey before the next September, it was declared to be "the imperative duty of the Governor, without further delay, to appoint suitable Commissioners and a surveyor for ascertaining, running and locating the north-eastern boundary line of this State, and to cause the same to be carried into operation."

Resolves were passed at this session, calling upon Congress to erect a strong fortification in the eastern section of the State.

It will be remembered that, pending the proceedings under the convention of 1827 for an arbitration, there was an understanding or arrangement, that during the arbitration each party was to practice forbearance and moderation. The United States agreed only to exercise its good offices, inculcating a spirit of moderation in Maine, in the assurance that it would be reciprocated. For this we have the explicit testimony of Mr. Clay, Mr. Van Buren and other Secretaries. Mr. Forsyth, in a letter to Mr. Fox, denies that there was ever any relinquishment of jurisdiction, either express or implied, and affirms that "the United States has, on every public occasion, asserted that both the right to exclusive possession and the exercise thereof belonged to Maine and the United States."

But this understanding in regard to mutual forbearance, so far from being respected by the Provincial and British authorities, was only made the pretext and excuse for steadily renewing and increasing the claims of New Brunswick to ownership and jurisdiction, and of denying all right of occupation and jurisdiction on the part of the State of Maine; so that, within ten years from this arrangement, we find Sir John Harvey, Lieutenant-Governor of New Brunswick, claiming to have, under an agreement of the two governments, the right to *exclusive* possession of the territory until the time of a final decision in regard to the boundary; and that, to secure the political enjoyment of such right, he had placed the entire territory, to a point many miles south of the Aroostook River, under the supervision and control of an officer called a "Warden." This insolent and audacious claim was made known to the State and federal authorities only to be denied and refuted, and it put the former on the inquiry whether the State, by non-action in presence of such claim, should yield to it a practical acquiescence. The result was the appointment of a Surveyor, Dr. S. S. Whipple, of East-

port, to survey several townships of land on or near the Aroostook River. While Dr. Whipple was engaged in the performance of this service, he received a communication from James McLaughlan, "Warden of the Disputed Territory," as he called himself, "protesting and warning" him forthwith to desist from his proceedings. To which Dr. Whipple made answer—that acknowledging no government or power but that of the State under which he had the honor of acting, sufficient to control his duty or countermand the orders which governed his present movements, he should continue to carry out the instructions that had been given him.

In the meantime, Governor Kent had transmitted the report and resolutions of the Legislature asking that the boundary line should be run, to the President and to our Members of Congress. He made representation of our unprotected frontier, and requested that lines of defence and military posts should be established; and he invited Hon. Charles S. Daveis, of Portland, to visit Washington in behalf of the State, to explain and urge these requests.

Mr. Forsyth, the Secretary of State, seemed more deeply impressed than his immediate predecessor had been with the strength of the claims of Maine. He received these communications of the Governor in an appreciative spirit, and his agent with the consideration due to his personal character, and with the courtesy which distinguished the character and bearing of the accomplished Secretary.

Among the results of these prompt and vigorous measures on the part of the Governor of Maine, were (1) a letter from Major General Macomb, advising him that Brigadier General John E. Wool, Inspector General, would be instructed to repair to the State of Maine, and make a reconnoissance with a view of ascertaining its military features and resources, project a plan for its

defence by the establishment of military posts and communications, arsenals, depots of arms, munitions, &c.,—duties which were soon afterwards performed. (2.) In the language of Governor Kent, “The question was rescued from the death-like stupor in which it had so long rested; a new impulse was given to the cause. For the first time, the whole subject was made the foundation of a Congressional report, and elicited in investigation and debate the talents and eloquence of some of our ablest statesmen. \* \* \* It was assumed and treated as a national matter which involved the vital interests of one member of the confederacy, and the plighted faith and constitutional obligations of the Union to make the controversy its own.” Referring to the able and decided report of Mr. Buchanan (from which I have already quoted), the Governor says: “The Resolves, finally adopted in both branches without a dissenting vote, fully assert the unquestionable justice of our cause, and the validity of our title.”

Remarking upon the Senate debate, alluded to by Governor Kent, Mr. Daveis, on his return to Maine, said in his report: “Among the Senators most conspicuous in the part they took in support of the views expressed in the report of the committee,” were Mr. Renel Williams, Mr. Webster, Mr. John Davis and Mr. Clay. Of Mr. Davis, he observes: “Without derogation from the merits of any other honorable member of that body, it may be due to say that he distinguished himself throughout the debate as the inflexible and unflinching champion of the rights of Maine, and of the position she had assumed, and the principles she had maintained through circumstances of great trial to her fortitude and forbearance.”

The general government having neglected to take measures for ascertaining and running the boundary line by the first of September, the Governor, on the third of that month, appointed

John G. Deane, Milford P. Norton and James Irish, Esquires, Commissioners to perform that duty, in pursuance of the provisions of the Resolve of the twenty-third of March, 1838.

These gentlemen, of whom the two last named had been land agents of the State, on the thirteenth of September, and after a conference with the Governor, proceeded to the performance of the service with which they had been charged, and on the thirty-first of December made their report.

In communicating this report to the Legislature of 1839, Governor Kent gives the substantial facts that appear in it. He says:

“Their report, which I have the pleasure to transmit to you, will be read with interest and satisfaction. By that it appears that the exploring line was *found marked to near the north-west angle*; that the base of the country rises constantly and regularly from the monument at the head of the St. Croix to the angle, which is from two to three thousand feet above the level of the sea, and more than five hundred feet above the Kedgwick, one of the streams running into the Bay of Chaleurs, near the said angle and the St. Lawrence waters; that the due north line, if continued to the valley below the north-west angle, actually strikes the St. Lawrence waters, and that the country is high, and even mountainous about this spot; and there is no difficulty in tracing a line westwardly along distinct and well-defined highlands, dividing waters according to the words of the treaty.”

And thus there was brushed away forever the flimsy and worthless pretext which had formed of late years so prominent a feature of the British case, viz: that it was impossible to find a line that conformed to the language of the treaty. Of this fact there never had been any doubt in this State—indeed, the proposition was one which was scarcely susceptible of doubt.

But the energy and fidelity of our State government at this time were not limited by these measures, necessary and important as they were.

It had come to the knowledge of the State Land Agent, the Hon. Elijah L. Hamlin—and let me stop here to say that I cannot mention the name of this admirable gentleman without some allusion to the wisdom, probity and genial humor by which his life was so strongly marked, and which has made his memory so pleasant to all of his surviving contemporaries, who had the good fortune to be his intimate friends,—that trespassing on our timber lands within the territory in dispute had been carried on for several years, and was then being committed by parties from the Province, and sometimes under license from its authorities. Accordingly this officer, in concert with George W. Coffin, Esquire, Land Agent of Massachusetts, on the fourteenth of December, deputed George W. Buckmore, Esquire, to proceed to the territory, ascertain and report the facts, and remove and sell, under the provisions of an act of the Legislature passed in 1831, the teams and supplies of the trespassers. By the report of Mr. Buckmore, made on the twentieth of January, 1839, it appeared that large numbers of men from New Brunswick were trespassing on these lands, who not only refused to desist from cutting timber on them, but defied the powers of the State to stay their operations.

These facts were communicated to the Legislature by Governor Fairfield (who had been elected as successor to Governor Kent) on the twenty-third of January, 1839. With this message, the "Aroostook War," an event not unfamed in history nor unknown to song, may be properly said to have commenced—a war which, notwithstanding the ridicule attached to some of its episodes, and its tame conclusion, forms a chapter in the history of our State which does real honor to its border chivalry.

The people of the State were thoroughly aroused—they had risen to the height of the great argument, and were prepared to do their duty to the State and country.

It should be said that this earnestness and unanimity of feeling in Maine were, without doubt, aided by the position which had been taken by the sister Commonwealth. Not only had Massachusetts come to the rescue in 1831, 1832 and 1833, when the rights of our State were in imminent danger, but in 1838, her Senators and Representatives in Congress had maintained in debate our claims and rights with power and effect; and in her Legislature, a report of a committee, of which Hon. Charles Hudson was chairman, was made, in which the subject was treated with conspicuous fullness and cogency, and resolutions were passed, declaring that the British claim was totally unfounded, and would, if persisted in, lead to a disturbance of friendly relations between the two countries; that the government of the United States had no power, under the Constitution, to cede to a foreign nation any territory lying within the limits of any State; that the proposition made by a late Executive of the United States to the British government, to seek for the "Highlands" *west* of the meridian of the St. Croix, was a departure from the express language of the treaty, an infringement of the rights of Maine and Massachusetts, and in derogation of the Constitution of the United States; that the proposition for a conventional line was calculated to strengthen the claim of Great Britain, impair the honor of the United States, and put in jeopardy the interests of Maine and Massachusetts. The Governor of the Commonwealth was directed to send copies of the report and resolutions to the President of the United States, the Governors of the several States and to the members of Congress from Massachusetts, and request the latter to use all

honorable means to bring the controversy to a just and speedy termination.

Governor Fairfield, in his annual message of 1839, following closely in the footsteps of his predecessor, said :

“If, however, the general government under no circumstances should be disposed to take the lead in measures less pacific than those hitherto pursued, yet I trust we are not remediless. If Maine should take possession of her territory up to the line of the treaty of 1783, resolved to maintain it with all the force she is capable of exerting, any attempt on the part of the British government to wrest that possession from her must bring the general government to her aid and defence, if the solemn obligations of the Constitution of the United States are to be regarded as of any validity.”

On the twenty-fourth of January, the Legislature passed a Resolve directing the Land Agent to employ forthwith, a sufficient force to arrest, detain and imprison all persons found trespassing on the territory of this State, as bounded by the treaty of 1783.

Under the authority of this Resolve, the Land Agent, with two hundred chosen men, repaired to the Aroostook River, where they understood were some three hundred men from the Province, armed and arrayed for the purpose of resistance. On the approach of the Maine “Posse,” as it was called, the Provincial force retired towards the New Brunswick line, followed by the Land Agent, the Hon. Rufus McIntire, and his assistants, G. G. Cushman and Thomas Bartlett, Esquires, who went to the house of one Fitzherbert, where they put up for the night. This place was three or four miles in advance of the encampment of their company. In the night, the trespassers—who had become acquainted with these facts—went, to the number of fifty or more, to Fitzherbert’s, seized the Land Agent and his

assistants, and transported them across the border, and thence to Fredericton. Col. Ebenezer Webster, a prominent citizen of Orono in this State, who was at Woodstock when the prisoners were brought there, attempted to procure their release. But his appeals to the authorities, so far from effecting the discharge of the prisoners, led to his own arrest, and he was sent with the others to Fredericton, where they were all thrown into prison.

When these facts became known at Augusta, Governor Fairfield requested Hon. Jonathan P. Rogers, a distinguished citizen of Bangor and a former Attorney General of the State, to visit Fredericton and ascertain the facts, as understood there, in relation to the abduction of the Land Agent and his party, and to demand their instant release. This mission of Mr. Rogers resulted in the release of these gentlemen on their parole. The Provincial "Warden," McLaughlan, had in the meantime been arrested by the Land Agent's *posse* and sent to Bangor. He was detained for a short time, and then released on parole, by order of Governor Fairfield.

On the thirteenth of February, the Governor of New Brunswick issued a proclamation, in which it was recited that he had ordered a sufficient military force to proceed to the scene of certain alleged outrages, to repel foreign invasion, &c.

This proclamation and the arrest of the Land Agent and his assistants were made the subjects of a spirited message by Governor Fairfield to the Legislature, on the eighteenth of February.

"How long," he inquired, "are we to be thus trampled upon—our rights and claims derided—our powers contemned—and the State degraded? \* \* We cannot tamely submit to be driven from our territory, while engaged in the civil employment of looking after and protecting our property, without incurring a large measure of ignominy and disgrace."

The Legislature, on the twentieth of February, passed a Resolve providing for the raising and forwarding forthwith of a military force to the territory to prevent further depredations; and the sum of eight hundred thousand dollars was appropriated to carry out the purposes of the Resolve and of the Resolve of the twenty-fourth of January.

A Resolve was passed on the twenty-second of February, requesting the Governor to inform the President of the action of Maine, and to request the aid of the general government in support of the rights of the State. In transmitting these Resolves and other documents to the President of the United States, Governor Fairfield says:

“In this state of things, I have to inform your Excellency that our citizens now upon this territory, engaged in the service of the State, will not leave it without accomplishing their object, unless compelled so to do by a superior force; that one thousand drafted men will march to the Aroostook on Wednesday, the twenty-first instant, to aid and assist the Land Agent in carrying into effect the Resolve of the twenty-fourth of January. I shall forthwith proceed to order a further draft of the militia of at least ten thousand men, who will hold themselves in readiness to march. Such further measures as may be found necessary to take and maintain the rights of this State in the premises, I assure your Excellency I shall not fail to take, and that with as much promptness as circumstances will permit.”

The Governor then makes a formal call upon the President “for that aid and assistance which the whole States have guaranteed to each in such an emergency.”

Orders were issued by the Governor and Commander-in-Chief for calling out and mobilizing the militia of the State. Major General Isaac Hodsdon, of the Third Division, was placed in command of the troops that were ordered out, and which con-

sisted of about eleven hundred men from the Third Division and thirteen companies from the Second Division, embracing cavalry, artillery, infantry and riflemen. These troops were stationed at different points on the frontier, from Houlton to the Aroostook River. A detachment of three hundred and sixty-nine men was quartered at Calais. It was under the command of Major General Foster. Orders were issued for calling out three companies of the Fifth Division, and eleven companies of the Sixth. The men were rendezvoused at Augusta on the seventh, eighth and ninth of March. A regiment from the Eighth Division was ordered to rendezvous at Skowhegan; but this order was countermanded before the troops, or at least before all of them, arrived at that place.

On the eighth of March, Governor Fairfield sent a message to the Legislature, communicating sundry documents which had been transmitted to him by Mr. Forsyth, and covering a message to Congress from the President, a correspondence between Mr. Forsyth and Mr. Fox, and a memorandum of an agreement drawn up by these gentlemen. This agreement, which did not claim to be binding on the State of Maine, recommended that "Her Majesty's forces will not seek to expel, by military force, the armed party which has been sent by Maine into the district bordering on the Aroostook River, but that the government of Maine will voluntarily, and without unnecessary delay, withdraw beyond the bounds of the disputed territory any armed force now within them; and that if future necessity should arise for dispersing notorious trespassers or protecting public property from depredation, the operation shall be conducted by concert, jointly or severally, according to agreement between the governments of Maine and New Brunswick." An arrangement better calculated than this to prolong the dispute, and thicken its embarrassments, can scarcely be conceived.

It found no favor in this State. After a clear and candid review of the situation by the Governor in a message to the Legislature which communicated the agreement to that body, he expressed the opinion that it ought not to be accepted, and gave strong and convincing reasons in support of that opinion. But he said he would recommend the following:

“That when we are fully satisfied, either by the declaration of the Lieutenant-Governor of New Brunswick, or otherwise, that he has abandoned all idea of occupying the disputed territory with a military force, and of attempting an expulsion of our party, that then the Governor be authorized to withdraw our military force, leaving the Land Agent with a *posse*, armed or unarmed, as the case may require, sufficient to carry into effect your original design, that of driving out or arresting the trespassers, and preserving and protecting the timber from their depredations.”

The Legislature, on the twenty-third of March, passed Resolutions asserting that the right of this State to exclusive jurisdiction over all the disputed territory had been constant, and was indefeasible, and that no agreement had ever been made which could impair her prerogative to be the sole judge of the time when, and the measure in which, that right should be enforced; that in view of measures recently adopted by the government of the Union in relation to this question, and particularly the provision made for a special Minister to the court of St. James, and actuated by a desire for an amicable settlement, she would forbear to exercise her jurisdiction over that part of her territory now usurped by the Province of New Brunswick, so far as she could consistently with the maintenance of the Resolve of the twenty-fourth of January last; but that she had seen nothing in recent events to cause her to doubt that it was her imperative duty to protect her domain, and that no power on earth should drive her from an act of jurisdiction so proper in itself, and to

which her honor was irrevocably committed ; that the action of the Governor had their cordial approbation, and that they concurred in the doctrines and sentiments contained in his recent message, and would authorize him to withdraw the troops on the conditions therein set forth ; that the practicability of running and marking the line, in conformity with the treaty, was beyond a doubt, and that a crisis had arrived when it was the duty of the general government to have the line run, either by a joint commission or on her own authority.

It should be said that the action of the State at this time met with the strong and general approval of the country, which seemed at last to be thoroughly awakened to the gravity of the situation, to a full recognition of the serious wrongs that had been inflicted upon Maine, to her indisputable title and to her long forbearance, and it pledged her its support. Maryland and Alabama from the South sent, through resolutions of their Legislatures, words of sympathy and proffers of co-operation, as Virginia and Kentucky had done before ; Massachusetts repeated her just appreciation of the rights of Maine and of the wrongs she had suffered ; New York, Pennsylvania and all New England had the year before signified their purpose to stand for the defence of our soil, while this year Indiana joined with Ohio in "a generous oblation of her whole means and resources to the authorities of the Union, in sustaining our rights and honor."

By an act of Congress, upon a report of a House Committee, the President was authorized to resist and repel any attempt on the part of Great Britain to enforce by arms her claim to exclusive jurisdiction. The whole military and naval forces of the United States were placed at his disposal, with such portions of the militia as he might see fit to call out for our protection.

An appropriation of ten millions of dollars for the purpose was made.

At this stage of the proceedings in Maine, Major General Winfield Scott, U. S. A., appeared upon the scene. At the instance of the President he visited Augusta, and after a conference with Governor Fairfield and members of the State Legislature, and reaching an understanding with Sir John Harvey, the Lieutenant-Governor of New Brunswick—between whom and himself there had long existed a warm personal friendship—an arrangement was effected by which the Maine troops were withdrawn from the disputed lands, and peace restored.

This agreement is reported by Governor Fairfield, in his annual message of 1840, as follows:

“Soon after the adoption of this resolution—March the twenty-third—I received the written assent of the Lieutenant-Governor of the Province of New Brunswick to the following proposition made to him by General Scott, to wit:

“‘That it is not the intention of the Lieutenant-Governor of her Britannic Majesty’s Province of New Brunswick, under the expected renewal of negotiations between the Cabinets of London and Washington on the said disputed territory, without renewed instructions to that effect from his government, to seek to take military possession of that territory, or to seek, by military force, to expel the armed civil *posse* or the troops of Maine.’

“It appearing to me that the precise contingency contemplated by the Legislature, had occurred, I could not hesitate to recall the troops.”

Orders for the return of the troops were issued on the twenty-fifth of March, and by the thirteenth of May the last of them were paid off and mustered out of service at Bangor. And so ended the “Aroostook War,” after an expenditure, I think, of something more than a million dollars by the State, all of which,

it may be said, was re-imbursed by the general government. It tested, at least, and not to their discredit, the patriotism and martial temper of our people. If in any way unsatisfactory in its results, it was not their fault. But something, Governor Fairfield considered, had been accomplished by it. He said :

“The occurrences of last winter served to awaken the attention of the country to the momentous importance of the question, and to induce such an examination of it as to result in a strong and universal conviction that the pretence of claim set up by Great Britain to the disputed territory is palpably unfounded and unjust, and can be persevered in only through an utter disregard of the plain and unambiguous terms of the treaty of 1783.”

Not long after the withdrawal of the troops, a proposition was submitted by the British government to the President for a commission of exploration and survey, but it was coupled with such conditions that one would think it must have been made for the sole purpose of being rejected, with a view to gaining time, and the advantages that might be expected from a protracted “Wardenship” of the country. That time and its accidents were considered, is rendered more than probable by the steps taken by Great Britain concurrently with the negotiation. She sent out a commission of her own—Messrs. Mudge and Featherstonehaugh—to obtain, as she expressed it, topographical information. Failing in all points as yet taken, or imagined, she set herself to work to discover if there might not be new ones more tenable or more plausible than the old, at any rate, to gain time. Nor was the quest a vain one in her estimation, for this remarkable commission discovered and reported that all previous surveys, reports and opinions were erroneous, and that the true line, the actual highlands, were far south, not only of the river St. John, but of Mars Hill ! And when it was answered that this line was not indicated by any

highlands such as were mentioned in the treaty as forming the boundary, they replied, in substance, that there was every reason to believe that *once there were highlands where their line was drawn, which in the course of time—it may have been millions of years—had been abraded and worn away.* This position was seriously taken by the British government, and urged upon the United States. That government would seem to have believed that no claim, no affront even, could arouse the temper of the American government; and certainly it is not strange that she should have formed this opinion.

Edward Kent, who had been elected Governor for the second time, addressed the Legislature of 1841, upon the assembling of that body in January. Referring to the boundary question, he said:

“It is universally conceded by every American, that the treaty of 1783, fairly interpreted and honestly executed, would sustain all our claim \* \* ; that the ready obedience with which our chosen soldiery responded to the call of their commander, and the unshaken zeal with which they marched from their comfortable homes, in the depth of winter, into the interior forests, and the firm determination which was manifested by every man to sustain the assertion of our rights, must have satisfied all that, although Maine, for the sake of the peace and quiet of the country, \* \* might forbear to enforce her extreme rights, pending negotiations, there was yet a point beyond which she would not submit to encroachments \* \* ; that she has a right to ask, when she has yielded so much, that her motives should be appreciated, and her cause become the cause of the whole country. \* \* ‘And that the assumed line of self-styled geologists, based on imaginary and theoretical highlands which never had any existence save in the fancies of these men, was unworthy of respect.’”

At this session of the Legislature, Mr. Daveis, who was a member of the Senate, made, as chairman of the committee on

this question, a comprehensive and exhaustive report; and, although a gentleman of extreme moderation and rare courtesy, he was moved, after some remarks in reference to the report of Mudge and Featherstonehaugh, to say that the committee "are only restrained from speaking of it further by the respect that is due to the channel through which it comes, rather than to the source from which it proceeds; from speaking—they mean to say as it deserves—of what otherwise might be termed its impudence, its audacity and its mendacity; of its sophistries and evasions; of its assumptions as well as suppressions; of its profligate perversions, and its presumptions and extravagant pretensions."

If ever trifling and contemptuousness can be practiced by one nation towards another so far as to become an affront, which, by the laws of honor and the duties of self-respect, as they are recognized among civilized nations, would justify an appeal to arms, the making, publishing and offering as evidence of title by the British government, of this impudent and insulting report, furnished justification for a hundred declarations of hostilities such as are settled only on the field of battle.

Governor Kent, in this message of 1841, refers to a procedure on the part of Great Britain, which, if further illustration were needed of the underhanded and offensive manner which it seems to have been her policy and her purpose to practice towards this government, would amply supply it.

It will be remembered that when our troops were withdrawn from the Aroostook, in March, 1839, it was upon a written proposition made by the Lieutenant-Governor of New Brunswick, and submitted through General Scott to the Governor of Maine, in which he agreed, among other things, in the absence of renewed instructions from England, not to seek to *take military possession of the territory*. This promise was accepted as

made in good faith. No renewed instructions were ever given ; that would have been war. But the difficulty was avoided in this way. Great Britain quietly transferred the jurisdiction of this territory from New Brunswick to Canada, and within a few months after this solemn agreement, in the inviolability of which Maine and the federal government fully confided, a portion of the British army was quartered by order of the Governor General of Canada, at Lake Temiscouata, within the limits of this State.

I make the following extract from the message of Governor Kent :

“The correspondence which has recently been communicated to you by my predecessor, discloses another movement on the part of the British authorities, well calculated to arrest attention and call forth indignant remonstrance on the part of Maine and the Union. If I am correctly informed, in a very short time after the conclusion of the agreement by which it was, in effect, stipulated that the British authorities should not take military possession of what is termed by them ‘the disputed territory,’ and during the existence of that arrangement, a detachment of Her Majesty’s troops was stationed at Temiscouata Lake, within that territory, and has been continued there ever since. And we are now informed that another detachment has been moved to and stationed at the Madawaska settlement, for the purpose of sustaining the jurisdiction and supporting the exercise of authority on the part of the British magistrates.”

In 1842, Governor Fairfield was again in office. John Tyler was President of the United States, and Daniel Webster was Secretary of State.

In his annual message to the Legislature, the Governor said that the State had “good grounds to believe a fair and reasonable proposition on the part of our government, with a view to

a final and amicable settlement of the question, has remained another year *unanswered*, if not *unnoticed*." He thought there was no room for doubt or hesitancy as to the course which the general government ought to pursue. He observed that "national honor, as well as justice to Maine, clearly indicate it—and that is, to purge the soil of this State effectually, and without delay, of every vestige of British encroachment; and then, if there is to be further negotiation upon this subject, let it be on the part of Great Britain to *obtain* what for more than a quarter of a century she has refused to *yield*. When a reasonable expectation can no longer be entertained that the general government will adopt this, or some equally efficacious course, if Maine is true to herself, she will take possession of the whole territory, and, if need be, use all the means which God and nature have placed in her hands to maintain it."

Referring to the exploration and survey which the general government had at last undertaken, and which were understood to have been nearly completed, he remarked that it was believed that it would "add a confirmation of our title which no ingenuity could avoid or effrontery deny."

On the seventeenth of January, resolutions were passed instructing our Senators to call on the President for information as to the state of negotiations, to which Mr. Webster replied that *no correspondence had taken place which, in his judgment, could be made public without prejudice to the public interest.*

A joint-select committee, of which Hon. Edward Kavanagh was chairman, made a report on the seventh of March, in which liberal extracts from the Governor's message were copied, including those given herein, all of which received the full approval of the committee and of the Legislature. But in consideration that it was understood a special minister had been appointed by Great Britain to visit Washington, with full power to con-

sider and adjust all questions in controversy, it was not deemed expedient at that time to do more than re-state the position of Maine; in doing which the committee took care to say that "Maine, through her Legislature, has uniformly protested against an arbitration; and we hazard nothing in saying that the people of this State will never consent that the inheritance derived from their ancestors be committed to such a hazard."

On the eleventh of April, Mr. Webster wrote Governor Fairfield that Lord Ashburton, a Minister Plenipotentiary and Special, had arrived at Washington, with full powers to negotiate and settle the different matters in discussion between the two governments; "that in regard to the boundary question he had authority to treat for a conventional line, or line by agreement, on such terms and conditions, and with such *mutual considerations and equivalents*, as may be thought just and equitable." He referred the Governor to the great losses of Maine in the Aroostook War, and to the fact that the United States had already paid one hundred thousand dollars towards an exploration; and, in contempt of the declaration of Mr. Kavanagh's committee, that Maine would never give her consent thereto, told him that if the case were not settled now it would go to another arbitration! He then proposed that Maine and Massachusetts should appoint Commissioners, with authority to give the assent of those States to such a settlement as he and the British Plenipotentiary might agree upon; and, to this end, that the Governor should convene the Legislature in special session, without unnecessary delay.

In accordance with this request, the Legislature was convened by the Governor, at Augusta, on the eighteenth day of May, 1842.

When the Legislature came together, they were informed by the Governor that "the British government is now prepared to propose \* \* \* what may be thought to be a *just and*

*equitable equivalent* for a portion of that which she has heretofore claimed as her own." He denounced any agreement for dividing the territory which did not afford an equivalent for the part that should be ceded to Great Britain.

The question was debated with much spirit for several days. Hon. Peleg Sprague, of Boston, Judge of the United States District Court, formerly a Senator in Congress from Maine, visited Augusta as the representative of Mr. Webster, and had prolonged conferences with members of the Legislature, urging the appointment of Commissioners, with liberal powers; and Mr. Jared Sparks, the historian, was mentioned, confidentially, by the knowing ones, as being at the Capital and holding private interviews with certain members of the Legislature. Hon. Albert Smith, a former member of Congress from this State, a gentleman of large influence, alike from his distinguished ability and his rare and genial humor, was also in attendance as an organ of the State Department. Measures for the preparation of public opinion for a conventional line were set on foot. Leading newspapers—religious as well as political—were in possession of new light and unwonted zeal upon this subject, to the extent, in some cases, of being able to see things that had been wholly obscured before—and the secret service fund of the State Department suffered a shrinkage, the details of which, if I remember aright, Mr. Charles Jared Ingersoll, with all his pains, was never able to obtain.

With all this effort, and notwithstanding the proposition was only for the appointment of Commissioners who, it was supposed, would make equivalents in kind as the conditions of any convention they might assent to, there was a respectable minority of the Legislature, who were inflexibly opposed to the appointment of Commissioners, upon any conditions. Some of them believed that the State had no rightful power to sell or

transfer, for a consideration, any of its citizens. Mr. William Frye, of Bethel, a member of the committee to which the subject had been committed, made a minority report in maintenance of this position; and I think there was not a member of either house who had a thought or fear that any convention would be entered into, under which, if the State surrendered land which was hers by the treaty of 1783, she would not receive territory in return, which was acknowledged to belong to New Brunswick. From the opportunity which I had of knowing the feeling and expectation of members—having myself been one of them—I believe I take no risk in saying that if it had been understood that any line would be agreed upon that should not give to Maine some portion of the acknowledged territory of New Brunswick, in exchange for what the latter should receive from Maine, the commission would never have been constituted. I do not believe it would have received ten votes in both houses.

Indeed, one of the resolutions carried this idea, and it was supposed that it would be regarded as conveying an implied instruction, at least. It read as follows:

*“Resolved,* That this State cannot regard the relinquishment, by the British government, of any claim heretofore advanced by it to territory included within the limits of the line of this State, as designated by the treaty of 1783, and uniformly claimed by Maine, as a consideration or equivalent, within the meaning of these resolutions.”

Four Commissioners—two from each political party—were appointed by the Legislature. William Pitt Preble and Edward Kavanagh represented the Democrats; Edward Kent and John Otis the Whigs. They proceeded without delay to Washington, and were there joined by Abbot Lawrence, John Mills and Charles Allen, Commissioners from Massachusetts.

The assent of Maine to the treaty, which was literally wrung

from her Commissioners, was given on the twenty-second of July, 1842. Massachusetts had given hers two days before. One needs but to read the paper in which that of Maine was conveyed, or the report of the Commissioners to the Governor, to discover that it was only through moral duress of the representatives of Maine that the document was obtained. The grief and the shame of it were expressed in words which cannot be misunderstood.

The Commissioners said :

“Considering, then, this proposition as involving the surrender of more territory than the avowed objects of England require, as removing our landmarks from the well-known and well-defined boundary of the treaty of 1783, the crest of the highlands, besides insisting upon the line of the arbiter in its full extent, we feel bound to say, after the most careful and anxious consideration, that we cannot bring our minds to the conviction that the proposal is such as Maine had a right to expect.

“But we are not unaware of the expectations which have been and still are entertained of a favorable issue to this negotiation by the government and people of this country, and the great disappointment which would be felt and expressed at its failure. Nor are we unmindful of the future, warned as we have been by the past, that any attempts to determine the line by arbitration may be either fruitless, or with a result more to be deplored.”

And so they consent to say that if the judgment of the nation shall demand the sacrifice, and the Senate of the United States shall advise and consent to it, their assent will not be withheld, although it will involve “a surrender of a portion of the birth-right of the people of their State, and prized by them because it is their birthright.”

The fact is, Mr. Webster was determined that the question should be settled at all events. He reasoned, he implored, he

threatened. He had connected this question with others—questions which were indeed well settled by the terms of the treaty, and which the whole country was anxious to see settled—and thus had brought all these interests and influences to bear on the Maine Commissioners. New York was to get Rouse's Point; there was the Caroline case; the Creole case; and the right of search; the suppression of the slave trade on the coast of Africa—important matters, all, and all virtually and wisely adjusted by the treaty or by the correspondence and informal negotiations at the time. It was like the case of making a general appropriation bill carry an obnoxious measure. All these influences were brought into conspiracy against our Commissioners. The business interests of the country needed the assurance that there were to be no disturbances, no war—an almost solid South demanded that the question should be put at rest. For one, although I have never ceased to regret that the Commissioners yielded, I have not had it in my heart to find fault with them, knowing, not only from the public history of the affair, but also from many conversations with a prominent member of the Commission, the straits into which they were thrown and the force and character of the demands that were made upon them.

In their letter to the Governor of Maine, in which they reported their doings as Commissioners, they complain that they, as well as the Legislature and people of the State, had been misled by the assurances which had been given in respect to the extent of the power intrusted to the British Plenipotentiary. "Instead," they say, "of being clothed with full power to negotiate a mutual exchange of contiguous territory for the purpose of removing the acknowledged inconveniences resulting from the treaty line of demarcation, we soon learned that he had no authority to concede a single acre of British territory adjoining

Maine—nay, not even the smallest of her islands in Passamaquoddy Bay.”

Nothing is more certain than this—that if the Governor had understood that the assurances made to him in the letter of the Secretary of State were unauthorized by anything in the instructions to the Minister, there would have been no special session of the Legislature. That this was the opinion of the Commissioners is manifest from their report. “The views of the Legislature,” they say, “so repeatedly expressed, were opposed to any assent on the part of its agents,” to a ratification of the line of the King of Holland. Yet the line of 1842 was less favorable to Maine than that. The pressure was such, however, that the consent of the State was finally given, on the condition, as the Commissioners inform the Governor, “that in the opinion of the Senate of the United States, Maine ought, under existing circumstances, to assent to so great a sacrifice of her just claims for the peace and harmony and general welfare of the Union.”

The ratification of the treaty was vigorously opposed in the Senate by Mr. Williams, of this State, Col. Benton, Mr. Buchanan, and others. Mr. Woodbury, of New Hampshire, criticised its provisions with much severity, but intimated that, since Maine had given her consent, he might not withhold his vote.

Col. Benton's speech occupied several hours, in which he showed up, with a thoroughness that was as complete as it was merciless, its imperfections and inconsistencies, and incompatibility with the interests and honor of the nation. He spoke of Maine as having been “victimized” and betrayed. “And this,” says he, “is her consent! Pressed by the President of the United States, pressed by the American negotiator—menaced—abandoned by her mother State—isolated from other States—presented as sole obstacle to the general peace—warned

that it was the last chance ; thus situated, this devoted State so far subdues herself as to say, through her Commissioners, that she submits to the sacrifice if, upon mature consideration, the Senate of the United States shall approve it." He said that we surrendered our old natural mountain boundary, the crest of the highlands, to which we had clung with a religious pertinacity from the beginning, and with it a strip of country one hundred and ten miles long, containing eight hundred and ninety-three square miles, beyond and above what was assigned to Great Britain by the King of Holland, and gave her the line she had contrived for the purpose of weakening our boundary and retiring it farther from Quebec.

Mr. Buchanan argued the question in detail and at great length. He said :

"I have earnestly endeavored to keep my mind open to conviction until the last moment ; but after all I cannot vote for this treaty without feeling that I had violated my duty to the country, and without forfeiting my own self-respect. In the emphatic language of the Senator from Maine (Mr. Williams) I believe it to be a treaty unjust to Maine, and dishonorable to the whole country ; and thus believing, if it depended upon my vote, it should be rejected without regard to consequences."

He said he concurred with the opinion formerly expressed by Mr. Webster, that the claim of the British government "does not amount to the dignity of a debatable question." He denounced Mr. Webster, as Col. Benton had done, in terms of reproach, which would have had greater effect had they been less sweeping and had they not indicated that personal feeling may have had something to do with barbing them. "That man," he exclaimed, "of gigantic intellect, whose great powers ought to have been taxed to the utmost to save Maine from dis-

memberment, was the very man who urged them (the Commissioners) to consent to the dismemberment."

But the speech which, perhaps, of all the speeches that were made, best reflected the attitude and feelings of Maine, was by her own Senator, Hon. Reuel Williams; it was dispassionate, clear and dignified, but earnest and strong. While avoiding the language of vituperation, it did not conceal the impression that Maine had been misled into a position to which no power could have brought her with her eyes open and her hands free; nor did it repress an expression of regret that the Commissioners, when they found, in direct conflict with their understanding of the facts, and that of the Legislature, that the British Minister had not full powers, had, indeed, no authority to cede an acre of British soil for any consideration whatever—and when limitations had been withheld from them, expressly on the ground that none were imposed on Lord Ashburton, and therefore that both sides should come together on the same footing—did not return at once, instead of remaining at Washington to transfer the interest and the honor of the State from their own hands into the sole keeping of the Senate of the United States. Mr. Williams said:

"I would go far, very far, to compromise this dispute upon honorable terms, and I would not be particular as to the value of equivalents. But I hold that Great Britain has contiguous territory, convenient to us, which she might and ought to give in exchange for the territory belonging to us which she so much needs, and ought to have for a just equivalent. This treaty does not accomplish fairly either object; it gives to Great Britain more than is necessary, and withholds from Maine what she ought to acquire."

In closing, he said:

"I cannot agree to the ratification of the present treaty. It is

unjust to Maine, and, in my judgment, dishonorable to the nation. I do not desire another arbitration, which may be more ruinous to Maine than the present arrangement. I have no confidence in further negotiation. What we have had has greatly weakened our once perfect title ; and I see no other way of getting our right as a nation and performing our high obligation to one of the States of the Union, than by taking possession of what belongs to us and holding it. In such a course we will have right and justice on our side. If others interfere with us, it must be in their own wrong. With these views, I send to the Chair the following resolution, and ask the yeas and nays upon its adoption :

*“Resolved,* That the treaty and documents now under consideration be re-committed to the Committee on Foreign Relations, with instructions to report a resolution directing the President of the United States to take immediate possession of the disputed territory, and to report such contingent measures as, in their opinion, may be necessary to maintain the just right of the nation.”

The resolution was not adopted.

When the treaty was before the Senate, similar tactics to those which had been used in extracting the consent of the State of Maine to its provisions were employed. Mr. Jared Sparks, when in Paris, some time before the negotiation, had found in the archives of the French government an old map, with a red line, of this part of the country, a copy of which was furnished by him to the Secretary of State, and by the latter communicated to the Senate in executive session, with a flourish of trumpets, sounding not victory, but defeat, to the claims of the United States and of the State of Maine. The history of the discovery of this map is told by Mr. Sparks in his letter to Mr. Webster, from which I copy :

“While pursuing my researches among the voluminous papers relating to the American Revolution in the *Archives des Affaires*

*Etrangers* in Paris, I found in one of the bound volumes an original letter from Dr. Franklin to Count D'Vergennes, of which the following is an exact transcript:

“‘PASSY, Dec. 6, 1782.

“‘SIR:—I have the honor of returning herewith the map your Excellency sent me yesterday. I have marked with a strong red line, according to your desire, the limits of the United States, as settled in the preliminaries between the British and American plenipotentiaries.

“With great respect, I am, &c.,

“‘B. FRANKLIN.’

“This letter was written six days after the preliminaries were signed; and if we could procure the identical map mentioned by Franklin, it would seem to afford conclusive evidence as to the meaning affixed by the Commissioners to the language of the treaty on the subject of the boundary. You may well suppose that I lost no time in making enquiry for the map, not doubting that it would confirm all my previous opinions respecting the validity of our claims. In the geographical department of the archives are sixty thousand maps and charts, but so well arranged with catalogues and indexes that any one of them may be easily found. After a little research in the American division, I came upon a map of North America, by D'Anville, dated 1746, in size about eighteen inches square, on which was drawn a strong red line throughout the entire boundary of the United States, answering precisely to Franklin's description. \* \* Imagine my surprise on discovering that this line runs wholly south of the St. John, and between the head waters of that river and those of the Penobscot and Kennebec. In short, it is exactly the line now contended for by Great Britain, except that it concedes more than is claimed. \* \* There is no positive proof that this map is actually the one marked by Franklin; yet, upon any other supposition, it would be difficult to explain the circumstances of its agreeing so perfectly with his

description, and of its being preserved in the place where it would naturally be deposited by the Count D' Vergennes."

Mr. Rives, of Virginia, a prominent member of the Committee on Foreign Relations, and I think its Chairman, introduced in the Senate this letter and the map which accompanied it—a copy of the original in the French archives, and which Mr. Sparks had marked with a black line—with these remarks:

"Is there no danger, in the event of another arbitration, that a further research into the public archives of Europe might bring to light some embarrassing (even though apocryphal) document to throw a new shade of plausible doubt over the clearness of our title in the view of a sovereign arbiter? Such a document has already been communicated to the committee, and I feel it to be my duty to lay it before the Senate, that they may fully appreciate its bearings and determine for themselves the weight and importance which belong to it."

He adds, that it is due to Mr. Sparks, that an account of it in his own words, in a letter to the Secretary of State be given. Mr. Sparks' letter was then read.

Here, then, was a brand new discovery, which one can scarcely conceive of as not fatal to our claim, if Mr. Sparks' inferences are to be relied upon, concealed from the other side, and suddenly sprung upon the Senate in secret session, to influence its action, and which, it may have well been supposed, would place the ratification of the treaty, notwithstanding the opposition of our Senator, Mr. Reuel Williams, Col. Benton and others, beyond much doubt. The treaty was indeed ratified, but not until the utter worthlessness of this evidence had been exposed by Col. Benton, Mr. Buchanan and Mr. Woodbury. This red-line map turned out to be no other than one of many red-line maps of 1746, one of which, from Mr. Jefferson's collection, had long been in the library of Congress, and had nothing whatever

to do with the map used by the Commissioners, or with that sent to the Count D'Vergennes.

The question was brought up at the next session, also, when Col. Benton said (See *Globe* and Appendix for 1842-3, Vol. 12, p. 111): "When he saw that the Senator from Virginia was yet in the act of pressing the importance of the map referred to by Mr. Sparks, he interrupted the Senator by calling, 'Here is the very same red line on Mr. Jefferson's map,' and on comparison it was found to correspond exactly. He proclaimed the red line loudly to prove that Mr. Sparks' secret was no secret at all."

This speech by Col. Benton was made on the fourth of January, 1843. Mr. Rives' speech, before quoted from, had just been published, the injunction of secrecy having been removed from the proceedings. Col. Benton took this occasion to correct some errors, as he considered them, in this speech. On the next day the question was brought up again, when Col. Benton said "there was not one particle of evidence to be adduced from the circumstance that the map, found by Mr. Sparks, in Paris, had a broad, strong red line indicating some boundary of Canada, was marked by Dr. Franklin; because every French map of the day had the same red line on it."

The fact seems to have been that this old French map, made nearly forty years before the treaty of 1783, indicated merely a French claim of boundary by just such a red line as was at that time commonly used. Besides, the fact that in 1794, when the subject was before the Commissioners, no such map or evidence of boundary was referred to, should have convinced Mr. Sparks that his version was not only untenable but preposterous. But the testimony, showing the utter failure, so far as the evidence was concerned, of this attempt to influence the Senate in favor of the treaty, was not permitted to be closed here. On

the eighteenth of January, Col. Benton again brought the subject before the Senate, when he produced a letter from Dr. Franklin, (the same already copied in this paper), dated the eighth of April, 1790,—and the last letter ever written by him—in which he says that the *map used in tracing the boundary was brought to the treaty by the Commissioners from England, and that it was the same that was published by Mitchell twenty years before*, and further, that the American Commissioners informed Congress of the fact at the time.

These revelations exploded and scattered, one would have hoped, forever, this wretched red-line map performance. But this was not to be; and years afterwards its echoes came to us from across the Atlantic. When, in 1861, the loyal country was engaged in an effort to preserve the nation, it received, as will be remembered, but small sympathy from the higher classes in England, who were eager enough to find grounds of indictment against the United States, and excuses for their own unfriendly feelings and actions. And among other explanations and excuses, they turned to this red-line map, took it up and threw it at us. The newspapers used it, the clubs talked about it, and one of the leading Quarterly Reviews, in an elaborate argument defending England's attitude of unfriendliness towards this country, referred, in justification, to the red-line map, its discovery, its concealment, its use in secret session of the Senate, and its exposition only after the treaty had been ratified, when the fraud had done its work too completely to be made ineffectual. This was not pleasant reading to us at that time, however groundless we knew the accusations to be; for we knew, also, that those to whom they were chiefly addressed—Englishmen, whom it was desired to see embittered against this country—did not know the facts, nor were they remembered by many even in our own country. The charge was well calcu-

lated to do us harm, and was, as against the nation, without a shadow of reason. Mr. Edward Everett, writing me on the twenty-eighth of February, 1862, said: "Of all the attempts in England to raise a prejudice against us, this clamor about the red-line map is the most unjustifiable."

Whatever of wrong there may have been in this transaction, it was wrong against the United States, and not against England. The latter had no right to complain of an expedient employed in her behalf, and that might open the way to the ratification of a treaty which she was so desirous to have executed as this. The whole story being a fiction, or a mere inference that was plainly without foundation, no evidence tending to support the British claim *had* been suppressed. Indeed, it is more than probable, from the language of one of Lord Ashburton's letters to Mr. Webster, that he had seen this very map; and he must have known, or he would have made other use of it, what it was designed to describe. This was shown quite clearly, I think, in the Senate debate on the ratification of the treaty.

The treaty having been attacked by many individuals, and among others, by Senator Daniel S. Dickinson, of New York, Mr. Webster made what he called a "Vindication of the treaty of Washington," on the sixth and seventh days of April, 1846, in which no reference is made to any danger we escaped by the treaty, from the red-line map discovery. In truth, the red-line map theory never had the slightest respect in this country after Colonel Benton's speeches in 1843.

The treaty line of 1842 commenced at the monument, at the source of the St. Croix, as agreed by the Commissioners under the treaty of 1794; thence it followed the exploring line that was run and marked by "the surveyors under the fifth article of the treaty of Ghent, to its intersection with the river St.

John and to the middle channel thereof; thence up the middle of the main channel of the said river St. John to the mouth of the river St. Francis" (to which point it is identical with the King of Holland's line); "thence up the middle channel of the said river St. Francis, and of the lakes through which it flows, to the outlet of Lake Pohenagamock; thence south-westerly, in a straight line to a point on the north-west branch of the river St. John, which point shall be ten miles distant from the main branch of the St. John, in a straight line in the nearest direction; but if the said point shall be found to be less than seven miles from the nearest point of the summit or crest of the highlands that divide those rivers which empty themselves into the St. Lawrence, from those which fall into the river St. John, then the said point shall be made to recede down the said north-west branch of the river St. John, to a point seven miles in a straight line to said summit or crest; thence in a straight line, in a course about south, eight degrees west, to a point where the parallel of latitude of  $46^{\circ} 25'$  north intersects the south-west branch of the St. John; thence southerly by the said branch, to the source thereof in the highlands, at the Metxarmette portage; thence down along the said highlands which divide the waters which empty themselves into the river St. Lawrence from those which fall into the Atlantic ocean, to the head of Hall's stream," etc.

Comparing this boundary with the line of the King of Holland, it is painfully obvious how much the State of Maine lost by refusing to accept the latter, as she indignantly did, in 1831. Accepting that boundary, she would have saved in territory 571,520 acres, or 893 square miles (see Mr. Webster's Vindication), and would have received from the United States land in the State of Michigan, of the value of two millions of dollars.

(See letter of the Maine Commissioners to Governor Fairfield, January 4, 1843.)

Maine received from the United States, in the way of compensation for her assent to the treaty of Washington, the sum of one hundred and fifty thousand dollars. Had she acquiesced in the recommendation of the King of Holland, she would have saved to herself a tract of country (given up by the Ashburton treaty) as large as the counties of Androscoggin and Sagadahoc and a good part of Lincoln, and have received, under General Jackson's proposition, in 1831, land of the value of two millions of dollars.

But it may be said, she acquired the free navigation of the river St. John. It has already appeared, and was shown in the Senate debates, that by the law of nations she already possessed that right, and more fully, as Col. Benton argued, than was set down in the text of the treaty. But, waiving that point, she had it practically, and would have enjoyed it. For the interests of the city of St. John, and of the Province as a whole, would have placed it on a satisfactory and permanent basis. So large a proportion of the trade and commerce of that city depended upon the trade in the lumber and other products of north-eastern Maine, that the Province was under stronger than treaty obligations to yield, and even to facilitate, the use of the river for the transportation of these products by our people. But even the treaty, under the construction put upon it, became an embarrassment rather than a benefit. Instead of enjoying, under its provisions, the rights which the people of Maine had reasonably anticipated, they were restrained beyond all previous experience. The treaty, by its terms, excluded manufactured articles, and besides, contained the following clause: "When within the Province of New Brunswick, the said produce shall be dealt with as if it were the produce of said Province."

This was a most unfortunate clause; for in virtue of it the Province assumed to collect, and in fact did collect, stumpage on lumber and timber cut in Maine, in the same manner and to the same extent that it would have done if they had been cut in New Brunswick. This is the way in which it was effected. New Brunswick levied an export duty, in lieu of stumpage, on all lumber and timber cut in the Province on which stumpage was due thereto, and as by the treaty, the lumber and timber cut in Maine were to be dealt with, when within the Province, as if they were the produce of the latter, and since she levied an export duty on her own, she had, she maintained, the same right to levy it on that which came from Maine. She did levy it and collect it. Making the duty high enough to include her claims for stumpage, it covered, of course, stumpage on the lumber and timber from the State. She collected no other stumpage. But a Maine lumberman, who had paid stumpage to the State, or to the proprietor at home, was compelled to pay it again to the Province. Having lost her pretended title to the soil, she yet contrived to hold and treat its growth and products as her own. When earnest remonstrance was made against this extortion and abuse of the treaty, she only replied that the right was given by it and would be exercised. And it was exercised until the treaty of Washington, in 1871, when the right to tax American produce in transit to an American market was taken away.

To the consideration, so urgently and so unceasingly pressed upon the people of Maine, that the treaty as a whole was advantageous to the United States, and their State should therefore be willing to set aside her single interest and her sentiment in deference to the general good, they always could answer, that she had never been unready to do her duty to the Union—that she had been patient under injury and indignity from a

foreign power, such as had been visited upon no other State; and this, too, when she had occasion to feel that her rights were neglected, and, as at times it almost seemed, betrayed by the national government, her constitutional protector. And they remembered, and could further answer, that there had been times and opportunities when a just and reasonable arrangement could have been effected, if the authorities at Washington had been as mindful of her interests and honor as they had never failed to be of smaller concerns affecting other interests and other sections of the country; that a line from near the monument at the head of the St. Croix to Eel River; thence to its outlet in the river St. John, some twelve miles below the town of Woodstock; thence up the rivers St. John and St. Francis to the crest of the highlands; thence following the line recommended by the King of Holland—was so well understood at one time as being attainable, that large purchases of real estate were made in the neighborhood of and above Eel river, upon the advice of parties at Washington, who enjoyed the very best means of knowing what might have been and was expected to be accomplished.

This State well understood that Great Britain regarded the right of way across the Madawaska country as a prime convenience, if not as a positive necessity; and she was never unwilling, with the consent of the people residing there (and which for many years there would have been no difficulty in obtaining), to cede to her so much of the territory as was needed for this purpose, and would have been content with a reasonable equivalent for so considerable a concession. That Great Britain overestimated the importance of this right of way, has been manifest from her subsequent action. She has practically acknowledged it, by insisting that the railway which she has aided in constructing, that connects Halifax and St. John

with Quebec and Montreal, should be built upon a route east of the boundary line as always claimed by Maine.

Nor is it quite easy for this State to forget that the more valuable the considerations moving to the United States in the frontier changes of boundary in the country west of Maine, the larger were the sacrifices to which she was called to submit. For these better boundaries in the west something was necessary to be paid, and it fell to the lot of Maine to make the payment from territory to which Congress had declared her title to be "clear and unquestionable."

For this large and uncalled for surrender of her soil, Maine sought no money equivalent. She only sought compensation in kind—land for land—privilege for privilege. She always refused to treat the question as one of pecuniary indemnity. When, in 1831, she was asked to accept the line of the King of Holland, and receive Michigan lands of the value of two millions of dollars, she promptly, as has been seen, and not without a feeling of just indignation, rejected the terms, regarding them as unjust and derogatory. And when, in 1842, her boundaries were so largely abridged, she declined to remember, as against the miserable *douceur* with which she was then put off, the greater compensation which she had spurned ten years before.

There is no fact in the history of Maine, in which I take greater satisfaction than this—that, while feeling keenly the injustice done to her, when once the sacrifice became inevitable, she was too proud to higgie about the price.

The story which I have here so imperfectly told, honorable as it is to the people of Maine, and for the most part creditable to her authorities, forms an interesting and important chapter in her annals, and if it be true, as we are told, that history is

philosophy teaching by example, it is one that may be read with interest and profit by the present and by future generations.

## CORRECTION.

In Section II, on page 15, it is said: "The Commissioners having agreed upon the river, decided that its source was in what is now known as Round Lake, the same, I suppose, that is laid down as North Lake in Greenleaf's map of 1815," &c. This is a mistake. The Round Lake which the Commissioners first agreed upon was the lowest of the western Schoodie Lakes. It had been claimed by the British agent as the true head of the St. Croix, in an elaborate argument based upon the belief that it would give a line to the highlands so far to the west of one starting from Lake Cheputnecook, as to leave the sources of the rivers that fall into the Bay of Chaleurs within British territory. But no sooner had he discovered that this was an error, than he took steps to have the branch of the St. Croix, against which he had been earnestly contending, adopted as the true river. He seems to have had no difficulty in bringing about this change. The "bad luck" in this case must be largely ascribed to the ignorance of the American Commissioners.

There seems to have been, at first, a misunderstanding on both sides, as to the effect of their respective claims. But the British agent was soonest undeceived.

The line claimed by this agent, as originally understood and contended for by him, would indeed have set aside "the plain provisions of the treaty and its undisputed history." But as it would have been run, it would have taken from New Brunswick a strip of country ten miles wide by one hundred and fifty miles in length. See letter of Robert Liston to Ward Chipman, October 23, 1798.

At all events, the British appear to have had their own way before the Commissioners. When they asked for Round Lake, they received it; and when they wanted Cheputnecook, they had no difficulty in getting it.

[To face p. 106.]

















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